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MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CALEPA BUILDING  
1001 I STREET  
2ND FLOOR  
CENTRAL VALLEY AUDITORIUM  
SACRAMENTO, CALIFORNIA

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JAMES F. PETERS, CSR, RPR  
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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Cara Morgan

Edgar Rojas

Kristin Yee

ALSO PRESENT

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Breana George, University of California, Santa Cruz

Chris Getskey, Department of Conservation

Laurie Hanson, California Bags & Film Alliance

Jim Hemminger, ESJPA

George Larson, American Plastics Council

Terry Leveille, TL & Associates

Dr. Manuel Pastor, University of California, Santa Cruz

Randy Pollack, Soap & Detergent Association

Scott Smithline, Californians Against Waste

Dennis Tootelian, California State University, Sacramento

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1 PROCEEDINGS

2 CHAIRPERSON MOULTON-PATTERSON: Ms. Waddell,  
3 would you please call the roll.

4 SECRETARY WADDELL: Marin?

5 BOARD MEMBER MARIN: Present.

6 SECRETARY WADDELL: Mulé?

7 BOARD MEMBER MULÉ: Present.

8 SECRETARY WADDELL: Paparian?

9 BOARD MEMBER PAPARIAN: Here.

10 SECRETARY WADDELL: Peace?

11 BOARD MEMBER PEACE: Here.

12 SECRETARY WADDELL: Washington?

13 BOARD MEMBER WASHINGTON: Here.

14 SECRETARY WADDELL: Moulton-Patterson?

15 CHAIRPERSON MOULTON-PATTERSON: Here.

16 Okay. We had a long day -- oh, ex partes. I'm  
17 sorry.

18 Ms. Mulé?

19 BOARD MEMBER MULÉ: None.

20 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

21 BOARD MEMBER PEACE: I'm up to date.

22 CHAIRPERSON MOULTON-PATTERSON: I'm also up to  
23 date.

24 BOARD MEMBER MARIN: I'm up to date.

25 CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian?

1 BOARD MEMBER PAPARIAN: I'm up to date.

2 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington?

3 BOARD MEMBER WASHINGTON: I have none.

4 CHAIRPERSON MOULTON-PATTERSON: Okay. We had a  
5 long day yesterday and finished quite a lot.

6 We continued Item 14. Correct me if I'm wrong,  
7 Mr. Leary, on any of these. I'm looking at these notes.

8 And 14, I think, we might have some new language  
9 to consider or --

10 DEPUTY DIRECTOR WOHL: Right. We're trying to  
11 work on that and get it done before the Board meeting's  
12 over.

13 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

14 So we'll be taking that toward the end, probably  
15 at the end.

16 We have Item 17 that was slated for yesterday,  
17 but we moved because some interested parties wanted to be  
18 here this morning.

19 So we have 17 and then 30, then we'll go to 18,  
20 25, 26, 27, 28, 29 and then 14; is that correct? Keep me  
21 honest here.

22 Okay. Then we'll just start right off with No.  
23 17, if you're ready, Ms. Wohl.

24 DEPUTY DIRECTOR WOHL: Yes.

25 Agenda Item 17 is consideration of the rigid

1 Plastic Packaging Container (RPPC), All-Container and  
2 Polyethylene Terephthalate recycling rates to be used for  
3 compliance year 2004.

4 And Michael Leason will present.

5 CHAIRPERSON MOULTON-PATTERSON: Good morning.

6 MR. LEASON: Good morning, Madam Chair and Board  
7 members.

8 (Thereupon an overhead presentation was  
9 Presented as follows.)

10 MR. LEASON: Okay. I'd like to begin this item by  
11 providing you with some background information.

12 At the Board's April 2004 Board meeting the Board  
13 adopted a resolution to support proposed legislation that  
14 would repeal the recycling rights as compliance options  
15 from the RPPC law.

16 In making that determination the Board considered  
17 several factors:

18 One, that beverage containers largely drive the  
19 recycling rights. Those containers make up the bulk of  
20 the material that's counted in the recycling rates;  
21 therefore, the rates that aren't an effective measure --  
22 or don't measure the effectiveness of the law as a result.  
23 Based on that, staff resources are better spent on  
24 planning and implementing certifications. And, in fact,  
25 if the rates were calculated only considering regulated



1 containers, which would then be an effective measure of  
2 the law, that recycling rate for the all-container, for  
3 example, is likely under five percent.

4           So the cost to calculate recycling rates that  
5 don't really measure the effectiveness of the law is  
6 really very high in terms of staff time and effort and  
7 also contract dollars?

8           Furthermore, the previously approved methodology  
9 is no longer feasible due to changes in the way necessary  
10 data, specifically national resin sales data, is reported  
11 and at the time when that data becomes available.

12           And, finally, the Board determined that annual  
13 certifications better support the actual intent of the  
14 RPPC law, which is to conserve resources, divert RPPC's  
15 from disposal, and also to support markets for recycled  
16 plastics. And California has invested significant amounts  
17 of dollars in collection infrastructure. And we have  
18 heard from processors that this implementation of this law  
19 is important to their businesses.

20           So based on those factors the Board made a  
21 determination to support the repeal of the recycling rates  
22 as compliance options.

23           I'm trying to figure out how to work the -- oops.  
24 There we go.

25                               --o0o--

1           MR. LEAON: Okay. So the purpose of today's  
2 meeting is to consider publishing the 2003 recycling  
3 rates, both the all-container and PET rates, based on best  
4 available information. Until the law is actually changed  
5 and the requirement to public these rates is removed, the  
6 Board still has a legal requirement to publish these  
7 rates; and, in fact, can't require individual companies to  
8 demonstrate compliance through either source reduction  
9 recycled content or the reused refillable options unless  
10 it first publishes a rate and makes a determination that  
11 the rates are below the threshold values of 55 percent for  
12 PET and 25 percent for the all-container rate.

13           So, again, today's purpose is to consider the  
14 best available evidence for publishing the 2003 rates, but  
15 not to revisit the whole issue on repealing the rates, the  
16 action that the Board took last April.

17           So that brings us to the best available evidence  
18 and how we estimated the recycling rates.

19                               --o0o--

20           MR. LEAON: Staff looked at trends in the  
21 published literature and also DOC beverage container  
22 recycling data. And these trends show a consistent  
23 decline in the recycling of beverage containers. At the  
24 same time --

25           CHAIRPERSON MOULTON-PATTERSON: Mr. Leاون, may I

1 interrupt just for a moment.

2 MR. LEAON: Yes.

3 CHAIRPERSON MOULTON-PATTERSON: I know there was  
4 some talk that we didn't have the right numbers from DOC  
5 or they weren't the final ones. Were those verified or --

6 MR. LEAON: Yes. We met with DOC staff, and we  
7 believe we have the correct numbers. And I believe we may  
8 have someone from DOC staff here today.

9 Let me -- yes, we do have DOC staff here today,  
10 who can speak more --

11 CHAIRPERSON MOULTON-PATTERSON: Oh, Great. Thank  
12 you. Because I know that came up.

13 MR. LEAON: -- succinctly to that issue than I  
14 can.

15 But, yes, we believe we're using the correct  
16 data.

17 CHAIRPERSON MOULTON-PATTERSON: Thank you.

18 MR. LEAON: Okay. So we looked at the trends in  
19 the recovery of beverage containers and also the  
20 proliferation, the use of plastic packaging in RPP's,  
21 especially in resin types that aren't recycled PPC,  
22 polypropylene. And we believe that those two trends  
23 combined, less recycling, more disposal, really strongly  
24 indicates that the rate would calculate -- the  
25 all-container rate would calculate to under 25 percent.

1           Now, that wasn't legally enough for the Board to  
2   make a determination on whether or not to require a  
3   certification. We actually have to publish a publisher  
4   rate, a specific number. So staff developed an approach  
5   using the 2001 recycling rate and beverage container  
6   recycling data from DOC to estimate the rates. And it was  
7   a proportional analysis that was used. And using the DOC  
8   processor numbers, staff estimated an all-container  
9   recycling rate of 23.9 percent. Using, and I believe it  
10   was certified recycling center data, one stakeholder came  
11   up with a calculation of 24.5 percent. So that number is  
12   slightly higher. But both numbers do calculate under 25  
13   percent, and both support staff's conclusion that the rate  
14   is under 25 percent.

15                               --o0o--

16           MR. LEAON: One issue that I do want to bring up  
17   today. At the May interested parties meeting staff did  
18   present the approach we were using to estimate the rates.  
19   And that's when the controversy arose over the data. And  
20   subsequently we met with DOC staff to confirm we were  
21   using the right information.

22           It was asked at the IP meeting whether this would  
23   be a methodology that the Board could use into the future.  
24   At that time we said that we do plan to use this as a  
25   methodology in the future, and that still holds true.

1           However, at that May IP meeting I also stated  
2   that at that time we didn't plan to publish the estimated  
3   rates. But subsequently when we were preparing this item  
4   it became clear that legally in order for the Board to  
5   require a certification, it couldn't rely just on best  
6   available evidence. We actually had to publish a rate.  
7   And that's when it became clear we would actually have to  
8   use that estimated rate and publish it. So some  
9   stakeholders may take exception to that change and  
10   direction from the May IP meeting.

11                               --o0o--

12           MR. LEAON: So, in conclusion, we believe the  
13   trends clearly indicate that the rate is on the decline.  
14   And the approach we used to estimate the rate supports  
15   that conclusion, not only for 2003 where we say it's below  
16   25 percent. But last year at this time the Board adopted  
17   a rate of 26.1 percent, which was the 2001 rate, based on  
18   best-available evidence that the rate would be above 25  
19   percent. And using the approach staff came up with, again  
20   that corroborates that action. Using our approach for  
21   2002 the rate would have been 27 percent. So we feel that  
22   this corroborates and supports using this approach.

23           And at this point I will hand over the staff  
24   presentation to Edgar Rojas with the Plastics Recycling  
25   Technology Section. He's going to take you through the

1 process in a little more detail, looking at the  
2 methodology previously used and discussing how the trend  
3 data indicates the rate would be under 25 percent, and  
4 also taking you through the approach we used to estimate  
5 the rates.

6 BOARD MEMBER MARIN: Before you leave let me just  
7 understand this very clear. Prior to and up to 2002, were  
8 those actual numbers or was it our best guess estimates?

9 MR. LEAON: The methodology that we used to  
10 calculate the recycling rates was based on conducting a  
11 waste characterization study every four years. And that  
12 would be in combination with a processor survey to collect  
13 hard data. And in the intervening years we would adjust  
14 those numbers -- those hard numbers --

15 BOARD MEMBER MARIN: You extrapolate that?

16 MR. LEAON: Right, based on --

17 BOARD MEMBER MARIN: So when was the last time  
18 that we actually used real hard data?

19 MR. LEAON: Well, the last waste characterization  
20 study was 1999.

21 BOARD MEMBER MARIN: Okay.

22 DEPUTY DIRECTOR WOHL: But I believe we  
23 calculated the rate -- in 2001`was an actual calculation  
24 of the rate.

25 BOARD MEMBER MARIN: Using 1999 data?

1 DEPUTY DIRECTOR WOHL: Right.

2 MR. LEAON: Yes.

3 BOARD MEMBER MARIN: So we're a little bit  
4 behind, so it's a couple of years behind?

5 DEPUTY DIRECTOR WOHL: Right. We then sort of  
6 estimate that forward. And we've --

7 BOARD MEMBER MARIN: You extrapolate that?

8 DEPUTY DIRECTOR WOHL: -- we've done that  
9 typically.

10 BOARD MEMBER MARIN: I understand.

11 DEPUTY DIRECTOR WOHL: But we're behind now on  
12 that.

13 BOARD MEMBER MARIN: Okay. That answers my  
14 question, Madam Chair.

15 CHAIRPERSON MOULTON-PATTERSON: Thank you.

16 Just so I'm clear on this. At one time didn't we  
17 report a range rather than an absolute number?

18 MR. LEAON: That's correct. When we had the data  
19 to actually do statistical analysis we would include a  
20 range. But this isn't -- it's just an estimate, and I  
21 don't think it's really -- there's no way to do it as a  
22 range.

23 DEPUTY DIRECTOR WOHL: The calculation had a  
24 level of confidence. And through that formula it would  
25 cause a range to be more accurate, and so that's what we

1 would report. And the Board would approve a range. So  
2 that we might say it's this number; but there's, you know,  
3 a half a percent this way and a half a percent that way,  
4 therefore we'd do a range. So I mean you really have an  
5 option to do a range or not. We just chose at that time  
6 to kind of say that we didn't specifically know.

7 CHAIRPERSON MOULTON-PATTERSON: Okay.

8 DEPUTY DIRECTOR WOHL: So the question is: Do  
9 you want to go through the more detailed understanding of  
10 the formula? So we can either do that or not, depending  
11 on the Board's preference.

12 CHAIRPERSON MOULTON-PATTERSON: New members?

13 BOARD MEMBER MARIN: Yeah, for my edification, if  
14 it's short, concise, and precise. I want that long  
15 history in about three minutes.

16 (Laughter.)

17 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace, did  
18 you want to -- you had a question, before you do that.

19 BOARD MEMBER PEACE: Yeah. Could you just  
20 clarify for me then. So the rate that you just came up  
21 with for 2003, was that rate -- did you calculate that  
22 using the same assumptions and methodology that you did  
23 for the 2002 rate? Or did you change how you calculated  
24 it? Or the way you calculated it this year for the --

25 MR. LEAON: Well, we used the approach to



1 estimate the rate for 2002 and 2003 --

2 BOARD MEMBER PEACE: So you used the same  
3 methodology --

4 MR. LEAON: Right. Because last year what the  
5 Board did was it adopted the 2001 rate again for 2002. So  
6 we wanted to do a check on our approach to see if it was  
7 consistent. And using our proportional analysis, we  
8 estimate the 2002 rate to be 27 percent, which is  
9 consistent with the findings that staff presented to you  
10 last year, that the rate would calculate above 25 percent.

11 BOARD MEMBER PEACE: And the way you calculate it  
12 for 2002 when it was above 25 percent, and no one  
13 complained about it, you used the same methodology for  
14 2003. And when it's below 25 percent, now they're  
15 complaining about the way you calculated that, but they  
16 didn't when it was above 25 percent?

17 DEPUTY DIRECTOR WOHL: Maybe I can clarify.

18 We actually did not calculate a 2002 rate last  
19 year. The last rate that we used the formula for was the  
20 2001 rate. Then we came forward and said, "We cannot  
21 calculate a rate in 2002. Our recommendation is that we  
22 just carry over the 2001 rate and we'll look for a  
23 methodology to calculate the rate and just not do a  
24 certification." And the Board agreed to that.

25 Then we came back this year, on the Board's

1 direction, to -- at the last one when we decided to do  
2 away with the rate the Board said, "Well, we still want  
3 you to come back and give us some trend analysis on  
4 whether you think the rate would be above 25 or not this  
5 year." So that's this item.

6 As part of that kind of formula that they would  
7 put together -- that is not the true formula, it is just a  
8 way to take trend data and then do a proportional  
9 formula -- we decided, "Well, let's see how that would  
10 have worked for 2002," the year we did not calculate a  
11 rate. So we went back and looked at 2002. And the same  
12 formula that we're proposing you look at today that's  
13 below 25 would have put it at 27 last year.

14 BOARD MEMBER PEACE: Thank you.

15 CHAIRPERSON MOULTON-PATTERSON: Okay. So we're  
16 going to give our concise chronology.

17 Okay. And I'll hand it over to Edgar Rojas.

18 (Thereupon an overhead presentation was  
19 Presented as follows.)

20 MR. ROJAS: Good morning, Madam Chair and Board  
21 members. I hope my presentation responds to some of those  
22 questions that you just had. Because I will be reviewing  
23 the whole process.

24 In 1999 when data from the Waste Characterization  
25 Study were available, the Board calculated the recycling

1 rate for all rigid plastic packaging containers, or  
2 RPPC's, by dividing the total tons of RPPC's recycled by  
3 the tons of rigid plastic packaging disposed or generated  
4 times 100.

5 --o0o--

6 MR. ROJAS: Since data from Waste  
7 Characterization Study were only available every four  
8 years, a correction factor was applied for the years that  
9 the study was not performed. The correction factor is  
10 coming from multiplying the population ratio by the  
11 national resin sales ratio. That's the national sales  
12 data where adjusted for California's population to derive  
13 an estimate of the number of RPPC's sold in California.

14 This methodology with the correction factor was  
15 used up to 2001 when it was considered not reliable due to  
16 lack of accuracy and data and availability.

17 If we were going to predict the recycling rate  
18 for all containers in the year 2003, we would have to  
19 analyze each one of the variables in the equation to know  
20 how each one influences the final recycling rate.

21 Using the best and most recent available  
22 information, staff concluded that the recycling rate for  
23 all containers in the year 2003 is likely to be below 25  
24 percent.

25 So let me review with you some of the determining

1 issues that do cast this conclusion starting with the  
2 RPPC's recycled in the numerator.

3 Two of the most important organizations  
4 administering the recycling of PET containers reported a  
5 reduction in the recycling rate over the last nine years  
6 in California and in the nation.

7 The Department of Conservation, the state agency  
8 administering the California Redemption Value, or CRV,  
9 data, indicated that PET beverage container returns  
10 increased in 2003 compared to 2002. However, it was  
11 outpaced by increasing in sales. If the sales are larger  
12 than the returns, then the recycling rate is supposed to  
13 decline. That's obvious.

14 Now, the National Association for PET Containers  
15 Resources, NAPCOR, cited a continued poor economic or  
16 marketing conditions in the recycling of PET containers.  
17 And not only that. The Association of Post-Consumer  
18 Plastic Processors indicated that there is a shortage in  
19 the collection of plastic bottles for recycling.

20 Now, looking at the other factors. For the  
21 national resin sales, they remain flat according to a  
22 report from the American Plastics Council over when is  
23 slightly down in 2003 compared to 2002. That means that  
24 the national resin sales factor is really negligible and  
25 doesn't count very much to the final estimate.

1           However, the 2003 sales for polypropylene, PP,  
2 and PVC show a continuous increase compared to 2002 sales.

3           Now, for the population ratio. It doesn't  
4 produce a meaningful change because the ratio in  
5 population for the year 2003 is very close to the ratio in  
6 population for the year 2002. But perhaps the most  
7 important factor is the amount of RPPC's being generated  
8 and disposed.

9           Staff expects the 2003 Waste Characterization  
10 Study results of RPPC's disposed to be higher than those  
11 in the 1999 study.

12                               --o0o--

13           MR. ROJAS: To complement to what I said, here on  
14 the graph we have the California container recycling  
15 rates. As we can see, with the exception of probably high  
16 density polyethylene, the one in blue, the overall  
17 recycling rates for RPPC's have a downward trend in the  
18 recycling rates.

19           And the declining in PET recycling is due to the  
20 presence of custom service bottles.

21                               --o0o--

22           MR. ROJAS: The Plastic Recycling Update News  
23 Letter reported an increasing trend in the number of high  
24 density polyethylene in PVC bottles produced and sold in  
25 the United States in the year 2003. As we can see, in

1 only seven months -- that is the line in red -- the amount  
2 of PVC bottles sold in the United States tripled. And  
3 those PVC bottles are very, very seldom being collected  
4 for recycling.

5 --o0o--

6 MR. ROJAS: In addition to the analysis that we  
7 did for the influence of each one of the valuables in the  
8 equation, staff derived a method to estimate the 2003  
9 recycling rate for RPPC's made from PET and for all  
10 RPPC's.

11 Since the recycling rate for the PET beverage  
12 containers, or CRV's, is proportional -- let me see if I  
13 can show that. Since the recycling rate, or CRV's, .36 is  
14 proportional to the recycling rate of RPPC's made from PET  
15 .32, by just following the rule of proportions we  
16 estimated the recycling rates for RPPC's made from PET in  
17 2002 and also the recycling rate for RPPC's made from PET  
18 in the year 2003 and we came out with 31 percent.

19 The calculation is illustrated underneath the  
20 table. So we just say mathematically that .36 is to .32  
21 as .35 is to the RPPC for the year 2003, which is 31  
22 percent.

23 --o0o--

24 MR. ROJAS: In the same fashion, staff derived  
25 the estimate for the all rigid plastic packaging

1 containers in the year 2003 and came out with 23.9  
2 percent. And this is based -- or this approach -- this  
3 approach is based on the assumption that the composition  
4 of all container recycled or the composition of all RPPC's  
5 remains the same for the year 2003.

6 So mathematically that would be like .37 -- I  
7 think you can see it -- .37 is to the recycling rate in  
8 the year 2001, which is 26.1 is to .34 as the recycling  
9 rate for the 2003 is 23.9. That's the estimated value.

10 And I think that responds to the questions that  
11 you had previously.

12 --o0o--

13 MR. ROJAS: The conclusion is: A qualitative  
14 analysis based on best available information of each of  
15 the factors influencing the rigid plastic packaging  
16 container recycling rate strongly suggests an  
17 all-container recycling rate below 25 percent for 2003.

18 The interim approach for estimating RPPC  
19 recycling rates supports the results of the qualitative  
20 analysis.

21 --o0o--

22 MR. ROJAS: Staff recommends to adopt an  
23 all-container rate for 23.9 percent and a PET recycling  
24 rate of 31 percent to be used for the year 2004 compliance  
25 and direct staff to conduct a certification of 75 product

1 manufacturers, and also adopt Resolution No. 2004-185.

2 That concludes my presentation. And staff is  
3 available for responding to any of your questions.

4 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.  
5 Questions?

6 Mr. Paparian.

7 BOARD MEMBER PAPARIAN: Thank you, Madam Chair.

8 Can you, I don't know, Patty or any other staff,  
9 kind of give us the big picture. What happens if it's  
10 over 25 percent or under 25 percent?

11 DEPUTY DIRECTOR WOHL: Right. If it's over 25  
12 percent, then all the companies are deemed in compliance  
13 and, therefore, no compliance certification is necessary.

14 So in this case we're saying we do not think it's  
15 over 25 percent and, therefore, we should certify some  
16 number of companies to verify the data.

17 BOARD MEMBER PAPARIAN: Okay. And so what does  
18 that mean? When you go out and do that, what does that  
19 mean?

20 DEPUTY DIRECTOR WOHL: They have to tell us their  
21 personal situation of how much they purchased and how much  
22 recycled content is in their product or if they  
23 light-weighted a product or -- they should be doing that  
24 anyway because, you know, whether it's -- if it's over it  
25 just indicates that the majority of them are doing it is



1 what it's saying. But if it's under they have to sort of,  
2 you know, show us the facts that supported their personal  
3 conclusion as to what their company did.

4 BOARD MEMBER PAPARIAN: And what do we do with  
5 that information?

6 DEPUTY DIRECTOR WOHL: Then we develop -- if  
7 it's accurate and they're fine and they were over 25  
8 percent as an individual company, they're fine. If they  
9 are not, then the Board has gone through a process of  
10 compliance agreements that says, "We're going to write up  
11 an agreement with you that says by such and such a date  
12 you're going to implement these things to get there."

13 And then we've worked with companies with -- and  
14 you've seen, you know, thousands of those come forward. I  
15 think the last batch was like 990. And so we're just  
16 finishing those up. And if they meet that compliance  
17 agreement, then we bring it back to you and say, "It looks  
18 like they got to 25 percent through these methodologies,"  
19 or we pulled some out that were small companies because  
20 you felt like they had a diminimous effect. And then if  
21 they're still noncompliant and can't do that, we bring  
22 them forward either for a stipulated agreement, which  
23 means they have a defined penalty, or we take them to a  
24 hearing.

25 BOARD MEMBER PAPARIAN: Okay. Thank you.

1 CHAIRPERSON MOULTON-PATTERSON: Thank you.

2 Ms. Marin.

3 BOARD MEMBER MARIN: Madam Chair.

4 But one of the things that I was trying to figure  
5 out, why is it that it's so important? Why 24.5 versus  
6 23.9? What comes to the crux of the problem? Now, if I  
7 understand correctly, we will have -- by law, right, we  
8 need to achieve 25 percent? That is something that is  
9 very clearly stipulated, right? We are mandated to have  
10 that number.

11 So then the question -- I could understand why  
12 people would want to make sure that we're as close to 25  
13 as we could possibly be. And I now then understood why  
14 23.9 versus anything else is not acceptable.

15 However, the options that we have, the Board --  
16 what would be the options? The options is, unless we work  
17 with guestimates, we would have to do an actual --  
18 literally an actual count. We would have to go back and  
19 certify the thousands of agents -- the thousands of  
20 companies. Then if I recall, this would take us back to  
21 when we did an audit of 1,000 or 2,000 companies. Within  
22 two years we did that?

23 DEPUTY DIRECTOR WOHL: It was a three-year  
24 combined. And it basically would be impossible to get an  
25 actual rate by going to all the companies.

1           BOARD MEMBER MARIN: So, clearly, we don't have  
2 very many options. What we are suggesting -- what staff  
3 is suggesting, that we go out and audit 75? Otherwise it  
4 would be a thousand?

5           DEPUTY DIRECTOR WOHL: Right. Or you have any  
6 option on the number. That's one of the discretions that  
7 the Board has. So if you decide to adopt a rate -- first  
8 of all you can decide to adopt or rate or not. If you  
9 adopt a rate, and it's below 25 percent, then you have the  
10 option to do compliance certifications and you have the  
11 option to decide how many of those.

12          BOARD MEMBER MARIN: Because what I want to do is  
13 I want to do what the law says we ought to do. And if the  
14 law says you ought to recycle 25 percent, and for whatever  
15 reason we are not there, we need to do, Madam Chair,  
16 whatever we can to ensure that we comply with the law.

17                 So that leaves a couple of questions for us. How  
18 do we achieve that? And it may be that this is only one  
19 portion. I am thinking, is our marketing campaign not as  
20 good as it used to be? Maybe we need to revitalize our  
21 marketing efforts to ensure that more and more people -- I  
22 want to see this as a bigger issue. This is just one  
23 method, one portion of -- the bigger question for the  
24 Board is how do we achieve 25 percent.

25                 So that's where I am, Madam Chair, right now.

1 And I just see this as one -- a small, tiny piece of a  
2 bigger puzzle.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 Patty, why -- you know, just big picture. Why is  
5 the rate going down? Are the companies stepping up with  
6 programs? Why is this? I mean --

7 DEPUTY DIRECTOR WOHL: Well --

8 CHAIRPERSON MOULTON-PATTERSON: Don't want to put  
9 you on the spot. But --

10 DEPUTY DIRECTOR WOHL: Well, if I could only  
11 solve that problem.

12 I think we -- we tried to explain basically that,  
13 you know, the fact that these kind of bottles are, you  
14 know, hugely popular and there's a lot of these ending up  
15 in the waste stream. Not to mention that a lot of things  
16 that used to be made out of other things are now being  
17 made out of plastic. So plastic is, you know, a very  
18 popular product.

19 With that, yeah, we feel like it's necessary to  
20 develop markets to help that. But there's still even  
21 these that have a 5 cent tag on them I believe, you know,  
22 are only being recycled at a 30 percent rate. So that  
23 tells you even that's not an incentive enough to get these  
24 out of the landfill.

25 So I think that's what our white paper attempted

1 to do, to look at some of those broader pictures. I think  
2 the Board voted on not doing a rate because they wanted  
3 staff to utilize their resources towards not calculating a  
4 rate but looking at market development. You know, we have  
5 limited staff there and they've always been on the  
6 regulatory side. And I think we want to pull back a  
7 little bit from that and focus on the markets development.

8 CHAIRPERSON MOULTON-PATTERSON: And maybe --  
9 since we have a lot of industry people that want to speak,  
10 maybe they can address, or maybe you can, what the  
11 industry's doing.

12 MR. LEAON: Madam Chair, may I respond to some of  
13 the comments?

14 CHAIRPERSON MOULTON-PATTERSON: Yes. And I know  
15 Ms. Mulé wants to speak too.

16 Yes.

17 MR. LEAON: This is Mike Leao with the Plastics  
18 Recycling Technology Section.

19 You know, I did want to clarify that the  
20 recycling rates -- we are not holding any individual  
21 company to demonstrate compliance to the 25 percent  
22 threshold for the all-container rate or the 55 percent  
23 threshold for the PET rate.

24 Those were included in law to allow companies to  
25 use those rates as a demonstration of compliance if they

1 were above those threshold values.

2 Now, one of the issues that I talked about in my  
3 presentation is these recycling rates are driven by  
4 beverage container recycling. Beverage containers are  
5 exempted, along with food and cosmetic containers, from  
6 having to demonstrate compliance. So the rates are not an  
7 effective measure of the recycling of regulated  
8 containers.

9 And that is why the Board took its action in  
10 April to support repeal of those recycling rates. We  
11 invest a lot of time and effort in regard to these  
12 recycling rates. But in a large sense it bears no direct  
13 relationship to the effectiveness of the program. So  
14 that's why we want to move away from spending time on the  
15 recycling rates, and focus instead on conducting annual  
16 certifications.

17 Now, what we've heard from processors is that  
18 this law is important to them, and that when the Board  
19 enforces this law and individual companies have an  
20 expectation that they may be required to demonstrate  
21 compliance, there's a greater possibility that they're  
22 going to make more effort to use recycled content in  
23 regulated containers.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
25 much.

1 Ms. Mulé.

2 BOARD MEMBER MULÉ: Yes. I just have a quick  
3 question for either Patty or Mike.

4 Based on the fact that this formula was developed  
5 using assumptions, and in the presentation that Ed had put  
6 together -- which was very good, thank you -- I noticed  
7 that the manufacturing or the use of PVC and polypropylene  
8 containers had increased, so do we know that they have in  
9 fact -- the recycling rates have gone up for those  
10 containers or not? And maybe that's something that  
11 industry can answer. Because, again, if we're using  
12 assumptions -- I mean I know we -- I just want to make  
13 sure we're being as accurate as we can, given the fact  
14 that we're using a new formula and we're changing that.

15 So that's basically what I was wondering. So  
16 maybe industry can answer that.

17 Thank you.

18 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace.

19 BOARD MEMBER PEACE: I have a question for  
20 Michael.

21 You said you're trying to get -- work at the  
22 Legislature to get rid of the necessity to calculate the  
23 rate. So if SB 1729 does pass and it gets rid of that  
24 necessity to even calculate a recycling rate, that means  
25 that all of the RPPC manufacturers are going to have to

1 certify compliance anyway, right?

2 MR. LEAON: The effect of that change will give  
3 the Board the discretion to determine whether it wants to  
4 conduct a certification. You don't have to do a  
5 certification every year, but you will have the discretion  
6 to make that determination.

7 And who you're requiring to demonstrate  
8 individual compliance is product manufacturers, not the  
9 container manufacturers. The law regulates the company  
10 that puts its label on that container.

11 And what you will be requiring them to certify to  
12 is that they've met one of the other compliance options  
13 provided in the law. Either they're using source reduced  
14 containers, recycled content containers, or reusable  
15 refillable containers.

16 And by doing so, staff believes that we'll be  
17 doing more to really directly support the intent of this  
18 law, to divert material from landfilling, conserve  
19 resources, and to support the recycling infrastructure in  
20 California.

21 BOARD MEMBER PEACE: Thank you.

22 CHAIRPERSON MOULTON-PATTERSON: Thank you.

23 I think now we will go to the speakers. Please  
24 be concise. We have quite a few.

25 We'll start with George Larson, American Plastics



1 Council, followed by Scott Smithline, Californians Against  
2 Waste.

3 Good morning.

4 MR. LARSON: Thank you, Madam Chair. George  
5 Larson representing American Plastics Council. Proud to  
6 be here to comment on California's most popular law.

7 (Laughter.)

8 MR. LARSON: I have a couple of comments. One  
9 due to -- which relates to process and one which relates  
10 to accuracy.

11 In the process of holding interested parties  
12 meetings it was indicated at the most recent interested  
13 parties meeting that a new formula was under consideration  
14 and it was in the preliminary stages of being developed  
15 and that it would lead at some point after further  
16 discussion to a new way to calculate the rate. And that  
17 subsequently changed to become the process, and the rate  
18 that was offered as a preliminary estimate now becomes the  
19 firm rate, 23.9.

20 That's just the process question of how we got  
21 from what was described to where we are today.

22 Secondly, and most importantly, the fact that it  
23 is a specific point in percentage, 23.9, versus a range  
24 causes me to have some problems. When the description of  
25 the process, using words that were used today are "likely

1 to be," "strongly suggests," "best available information,"  
2 and out of the agenda item itself, "cannot calculate an  
3 accurate and precise 2003 rate," again causes me problems.

4 In the past the American Plastics Council  
5 provided \$500,000 to the Integrated Waste Management Board  
6 to conduct a scientific study of the RPPC's in the waste  
7 stream through a waste characterization. Cascadia  
8 Consulting Company was contracted by the Board to conduct  
9 that study. They happen to be the one who are now  
10 conducting the current study, which we do not have the  
11 details on yet, which would be I think important to this  
12 discussion today. They should be ready by the end of  
13 summer.

14 But in that process where Cascadia Consulting  
15 conducted actual field sorts, used and applied scientific  
16 practices, they came back with their best estimate in a  
17 range.

18 Now, given all the what I consider to be  
19 estimated or I think, as Ms. Marin said, guestimated  
20 numbers, how can we be so absolutely confident and precise  
21 that it's 23.9 versus a range on either side?

22 As to what the impact is on this, I will only  
23 introduce that Randy Pollack will have some comments on  
24 the direct impacts of what the certification means to  
25 companies in California. I would propose that the efforts

1 of your staff to conduct certifications could prove much  
2 more productive if those staff were redirected to the  
3 efforts of promoting market development rather than  
4 chasing certification forms around in the state and  
5 outside the state.

6           So I believe that this issue is not fully cooked,  
7 not fully baked, and we need some more consideration on  
8 how we got to where we are. And I would request -- I  
9 understand that there is a representative from the  
10 Department of Conservation here. The numbers have  
11 changed. This chart has changed three times since that  
12 interested parties meeting. What are the numbers? How  
13 can we make a policy decision based on elusive numbers  
14 that are changing. Now, if they come here today at the  
15 point in time where policy is being made and say, "These  
16 are the numbers," that will be the first time we'll all  
17 see them.

18           So I think we need to go back and take a look at  
19 this whole process with a little more scrutiny. I  
20 appreciate that.

21           CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
22 Larson.

23           Scott Smithline, Californians Against Waste,  
24 followed by Randy Pollack, Soap and Detergent Association.

25           MR. SMITHLINE: Good morning, Madam Chair, Board

1 members. I'm Scott Smithline with Californians Against  
2 Waste.

3 I'm here today to ask you to support the staff  
4 recommendation number 1 and adopt and publish the  
5 recycling rates and require certifications.

6 In response to concerns voiced by this Board and  
7 other stakeholders Californians Against Waste is  
8 sponsoring Senate Bill 1729 by Senator Chesbro. This bill  
9 will remove, as your staff has already said this morning,  
10 the all-container rate and the PET container rate as  
11 compliance options and hopefully put an end to this  
12 numbers game. As you know, these recycling rates really  
13 misrepresent the RPPC recycling rate by the inclusion of  
14 exempt bottle bill containers.

15 So, again -- well, just let's put an end to this  
16 numbers game. We urge you to adopt staff's recommendation  
17 number 1.

18 Thank you.

19 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
20 Smithline.

21 Randy Pollack, Soap and Detergent Association,  
22 followed by Evan Edgar.

23 MR. POLLACK: Madam Chair, members of the Board.  
24 First of all I'd like to welcome Member Marin and Member  
25 Mulé to the Board. And also I'd like to take this

1 opportunity to thank the Board for postponing this until  
2 today, as many of my colleagues, we had legislative  
3 hearings yesterday.

4 I just wanted to respond, provide a little bit of  
5 information of what companies go through in trying to  
6 certify when they're in compliance. I represent the Soap  
7 and Detergent Association, the Cosmetic, Toiletry and  
8 Fragrance Association and many small companies.

9 What we're talking about is a huge universe. Any  
10 company in the United States that manufactures a product  
11 that is in a reclosable package or in a container that  
12 goes from eight ounces up to five gallons and ships it  
13 into California is under this law.

14 What we have found over the last couple of years  
15 is that most people know nothing about this law. One of  
16 the things that we have been trying to do, and in talking  
17 with the Board, is that before we move forward with  
18 additional certifications, let's analyze the current  
19 program.

20 We have done over 1,000 certifications. And  
21 during that time we've had many small companies, who have  
22 had to respond from out of state, who have expended a lot  
23 of money to try and demonstrate something they aren't  
24 quite sure what they're supposed to be demonstrating, to  
25 large companies who I represent from the Soap and

1 Detergent Association who are in compliance with the law.

2 I'd like to give you two examples of how this  
3 works out. I represent one company that several years ago  
4 supplied some compliance information. It took probably  
5 several, maybe 10, 20, \$30,000 to do that, if not more.  
6 They're coming back again this year and they're asked to  
7 certify once again.

8 This company has 900 product lines. Now, you're  
9 wondering how could a company have 900 product lines. You  
10 take a product, it could be sold in 8 ounces, 12 ounces,  
11 16, 32, all the way up. So you can see how that can  
12 multiply out. What these companies have to do is they  
13 have to contact their container manufacturers. Now in  
14 most instances they don't go to one container  
15 manufacturer. They may go to a wholesaler, who then  
16 branches it out. So you send a letter to one container  
17 manufacturer who might have to ship it out to eight other  
18 people. So we're talking about volumes of paper. Then  
19 you have to get back this information and start to  
20 calculate it. And If you could just see the amount of  
21 time and effort that goes into this, it is enormous.

22 There was one company that had a product and they  
23 had to demonstrate to the Board that they could not be in  
24 compliance because their container would leak. They spent  
25 \$25,000 do prove to this Board that they could not be in

1 compliance.

2 Now, if we're going to be a business-friendly  
3 state, I don't believe this is the way to do it. What I  
4 believe is very important, is that we have a thousand  
5 certifications out there. Let's review them. Let's see  
6 what works, what doesn't work: Where have we run into  
7 problems? Are we not getting back the information in  
8 time? Can we assist them in providing more information?

9 Have we ever done a marketing campaign to let  
10 people know about this program?

11 And so those are our major concerns.

12 Additionally, I am also concerned, is that, it  
13 was stated before, that in the past when a company is not  
14 in compliance, they have entered into a compliance  
15 agreement. It's my understanding that that is no longer  
16 an option, that there has been a penalty structure that is  
17 now in place that if you even return your form late,  
18 you're going to be assessed a penalty or be referred over  
19 to an administrative law judge for determination of this.  
20 So I don't believe that -- the compliance agreements from  
21 my understanding are no longer in place.

22 And so what we're very concerned is there is a  
23 budget item in this year's budget that calls for a million  
24 dollars in fine and penalties that's set up under the  
25 California Integrated Waste Management Board. It's been

1 indicated to us it's a I placeholder. But from business I  
2 can tell you, we're very concerned about that.

3 And, finally, let me just mention, I represent  
4 several small businesses. The problem that they have is  
5 they cannot force their container manufacturers to give  
6 them a recycled container that they can afford. It is  
7 difficult for us. We can't force changes. And I  
8 understand that if you're a very large company, you may be  
9 able to do that. But for the majority of the companies  
10 out there, the companies can't force the change. They  
11 don't have the power. Because the container manufacturers  
12 are going to go, "Well, we're going to charge you double  
13 for that container or go somewhere else. Because for your  
14 run of 20,000 bottles, we aren't going to do it for you."

15 And so we hope that the Board would take this  
16 into consideration. And if they do accept this rate,  
17 which we believe also is flawed, that we'd ask that  
18 there'd be no compliance for the year 2004.

19 Thank you.

20 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
21 much.

22 Evan Edgar.

23 Mr. Edgar, are you just representing yourself or  
24 are you representing someone today?

25 MR. EDGAR: Madam Chair, Board members. Evan



1 Edgar. I've been representing California Refuse Removal  
2 Council for 12 years.

3 We are the --

4 CHAIRPERSON MOULTON-PATTERSON: Well, I know you  
5 all wear different hats sometimes.

6 MR. EDGAR: It's a white hat though.

7 CHAIRPERSON MOULTON-PATTERSON: It's a white hat.  
8 Oh, okay.

9 MR. EDGAR: Yeah, we represent over 100 curbside  
10 operators and 50 MRF processors. And I've been  
11 representing -- Edgar Associates have been representing  
12 California Refuse Removal Council for the last 12 years.  
13 And you've met my brother Sean on many occasions. So we  
14 welcome the new Board members to this Board.

15 Right now curbside is reaching 70 percent of the  
16 Californians. And we have a lot of collection and  
17 processing opportunities. I represent over 100 curbside  
18 programs and over 50 MRF's in the State of California. We  
19 have the facilities. And we would like to support Option  
20 No. 1. And we are supporting SB 1729 because of the fact  
21 that this recycling rate is indicative of market  
22 development for post-consumer plastics, that we need to  
23 benchmark the success of using minimum content and the  
24 plastics reuse.

25 We collect the containers. We have the

1 technology. We collect them every day. So the collection  
2 is there. For years there was rhetoric that there wasn't  
3 collection opportunities. There are. What we would like  
4 to see is having some market development. Instead of a  
5 marketing campaign about this bill, let's do some market  
6 development for the use of post-consumers' RPPC's. That's  
7 what we'd be looking forward to.

8           The California Board can force changes. That's  
9 why we're here. People say we can't force changes.  
10 Change is here. So with SB 1729 and Option No. 1 we  
11 believe that certification is key in order to have  
12 indicative of what is a minimum recycled content rate of  
13 RPPC's. So with that we support Option No. 1.

14           Thank you.

15           CHAIRPERSON MOULTON-PATTERSON: Thank you very  
16 much.

17           And that concludes our speakers.

18           Did anyone have any questions? Did we want to  
19 hear from DOC?

20           Mr. Paparian, did you have a question?

21           BOARD MEMBER PAPARIAN: No, I was going to make a  
22 motion. But go ahead if you have --

23           CHAIRPERSON MOULTON-PATTERSON: Okay. Who is the  
24 representative from DOC?

25           Could you come forth and state your name for the

1 record.

2 MR. GETSKEY: Madam Chairman, members of the  
3 Board. Chris Getskey from Department of Conservation.

4 Jim Ferguson and Chuck Sideler send their  
5 apologies. They had previous engagements, and I'm here  
6 representing them.

7 CHAIRPERSON MOULTON-PATTERSON: So you're  
8 verifying that these are the rates that -- exact rates?

9 MR. GETSKEY: What we --

10 CHAIRPERSON MOULTON-PATTERSON: I mean let's get  
11 it on the record.

12 MR. GETSKEY: Basically in working with some  
13 questions that have come to us recently, what we are  
14 prepared to say is that to date there have been no  
15 official reportings for calendar year 2003 sales and  
16 returns on beverage container materials. Any data  
17 provided to date would necessarily be preliminary.

18 The PET recycling rate did drop in 2003 to 35  
19 percent from a 2002 rate of 36 percent. One percent drop.

20 The PET beverage container returns increased in  
21 that same year 2003 to 1.9 billion, which was an increase  
22 compared to 2002 of approximately 259 million.

23 However, the PET beverage container sales  
24 increased also in 2003 to 5.5 billion, which was an  
25 increase compared to the previous year of 821 million

1 beverage containers.

2           Thus the recycling rate decreases because the  
3 sales increase outpaces the returns increase, as was  
4 mentioned earlier.

5           For HDPE the recycling rate according to current  
6 data dropped to 34 percent from a 2002 rate of 42 percent.  
7 The returns for HDPE beverage containers decreased to 176  
8 million in 2003, which was a decrease compared to the  
9 previous year of approximately 5 million containers.

10           HDPE sales increased to 525 million in 2003,  
11 which was an increase as compared to 2002 of approximately  
12 98 million beverage containers.

13           Those are the numbers that we have available at  
14 this time.

15           The volume of beverage containers returned is  
16 based on weight as actually reported in actual pounds, and  
17 is then converted by factors that are estimated from some  
18 fairly well developed methodologies. And we develop a  
19 container-per-pound estimator. That CPP is based on  
20 sampling and, therefore, there is a certain level of error  
21 based on the fact that it is a sampling methodology. That  
22 error rate is not something that we calculate.

23           So the error rate is not calculated for the  
24 beverage container returns that we report. And it is not  
25 known if published recycling rates are accurate to two or

1 three significant digits.

2 And insofar as the RPPC rate involves several  
3 factors not determined by the DOC, the Department really  
4 is not in a position to evaluate if one RPPC recycling  
5 rate as determined and discussed here today is better than  
6 the other.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
8 much.

9 I think we have some questions for you.

10 Mr. Paparian.

11 BOARD MEMBER PAPARIAN: If I was following your  
12 numbers there, it looks -- it looks like the numbers we  
13 have in our revised chart are consistent with the numbers  
14 that you were reading off --

15 MR. GETSKEY: As best I could --

16 BOARD MEMBER PAPARIAN: -- the 35 percent and 34  
17 percent for 2003. And then if the 42 percent was right  
18 for 2002, we may actually be overestimating the recycling  
19 rate by a very slight amount, because it looks like we  
20 have 43 percent on our chart.

21 MR. GETSKEY: Yes.

22 BOARD MEMBER PAPARIAN: So it seems to be  
23 consistent with the numbers that we're using.

24 MR. GETSKEY: As best I can determine from Mr.  
25 Rojas' earlier presentation, those numbers were consistent

1 with our numbers, yes, sir.

2 BOARD MEMBER PAPARIAN: Thank you.

3 CHAIRPERSON MOULTON-PATTERSON: Thank you.

4 Ms. Peace.

5 BOARD MEMBER PEACE: I'd just like to say, you  
6 know, industry thinks that this contributes to a  
7 business-unfriendly California. But it is the law, and it  
8 does help contribute to less of our natural resources  
9 going to the landfill.

10 So I haven't seen enough evidence to convince me  
11 that the RPPC recycling rate is anywhere near 25 percent.  
12 And I support the assumption staff have made to come up  
13 with the 23.9 rate. And I guess I'd much rather see what  
14 manufacturers are really doing to comply with this law  
15 rather than bicker over a recycling rate. So I do support  
16 staff's recommendation.

17 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,  
18 Ms. Peace.

19 Before we go to any motions, I have a question  
20 for Mr. Wohl.

21 In your opinion and your staff's opinion, do you  
22 think that the money spent for the audits and  
23 certifications is money well spent, better than if we put  
24 it into something -- the money into looking for programs?

25 DEPUTY DIRECTOR WOHL: I think we've discussed

1 this before. We do see that many companies change their  
2 processes and increase the amount of recycled content  
3 plastic they use based --

4 CHAIRPERSON MOULTON-PATTERSON: -- by the  
5 certification models.

6 DEPUTY DIRECTOR WOHL: -- through the compliance  
7 agreement. But, again, it is time intensive. So I think  
8 that's why we sort of recommended the 75 or, you know, a  
9 lower number.

10 CHAIRPERSON MOULTON-PATTERSON: I know, this is a  
11 tough one. And I appreciate all the work, Mr. Leaoon too.

12 Ms. Marin.

13 BOARD MEMBER MARIN: Madam Chair, there are --  
14 you know, coming to the Board and having this is so  
15 enlightening and fascinating. One of my questions -- and,  
16 you know, I can see where some people, just by looking at  
17 how we've changed the numbers especially in the last  
18 couple of weeks or so, maybe even a couple of days, would  
19 be very skeptical about the fact that at the end of the  
20 day -- no matter how much we change, at the end of the day  
21 the figure continues to be 23.9.

22 I can see where critics of what we're attempting  
23 to do may find it almost comical because we have -- we  
24 change all the numbers but the result is the same. And I  
25 would consider that -- I would question how is it that

1 after all of that that the number is the same as well.  
2 Knowing full well that the real intent of what we're  
3 really attempting to do here is complying with the law of  
4 25 percent. And no matter how much we do this, it doesn't  
5 come up to 25 percent or 24.

6 My question is, when we were using the  
7 methodologies that we were using -- that we're using  
8 today, at some point in time it was 27 percent. Now, if I  
9 am incorrect, I want to be -- but the way that I see is we  
10 were using these methodologies before and we were  
11 achieving 27 percent. We're using the methodologies today  
12 and now we're seeing 23.9 percent. Is that a true  
13 statement?

14 DEPUTY DIRECTOR WOHL: Well, let me just clarify.  
15 This is the first time we've ever used this methodology.  
16 But we did go look back a year to say if we used this same  
17 methodology, what would it have looked like last year.

18 BOARD MEMBER MARIN: Oh, so that's where it gets  
19 the 25 percent.

20 DEPUTY DIRECTOR WOHL: And that's when it was  
21 above the 25. So it sort of showed that it wasn't just  
22 that it was going to show it below a 25 no matter what,  
23 because in last year's data it actually showed it above.  
24 So we felt that added some validity to the proportional.

25 BOARD MEMBER MARIN: So then the question is: Is



1 it there a particular number? I mean is it 75? And who  
2 would chose the 75? And what methodology will we used?  
3 Do we have that yet established or not? Would it be the  
4 same -- you know, 75 of the 1,000 that we wouldn't certify  
5 or brand new 75? Is there a magic number? Is there a  
6 magic criteria? Because no matter what we do, I am sure  
7 questions would be as to why is it that one particular  
8 company versus anybody else would be chosen. Are we there  
9 yet?

10 DEPUTY DIRECTOR WOHL: I was just going to --

11 MR. LEAON: I can respond to that, Patty, if  
12 you'd like.

13 Yes, for the last certification that we noticed  
14 the last April, which was for the 2001 reporting effort,  
15 we did a concerted effort to only include in that  
16 certification companies that are large and that have an  
17 impact on California.

18 And we are recommending to the Board that in any  
19 one year you don't do more than 100 companies in a  
20 certification, is we feel that's the maximum manageable  
21 amount given our staff resources. But the number you want  
22 to certify is really at your discretion.

23 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

24 Mr. Washington's been waiting very patiently.

25 BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

1           You know, I'm not there. I believe that this  
2 item -- let me ask Patty or Mike, is this something that  
3 has to be passed by this Board today? And if it doesn't,  
4 what happens?

5           DEPUTY DIRECTOR WOHL: I think -- we made a  
6 commitment to the industry to give them a six month notice  
7 on the change in rate because we were always doing it  
8 backwards. So now they know. And it would be effective  
9 for the January 1st, so it gives them that notice.

10          It's not hard and fast. It was just the  
11 commitment we tried to make to them.

12          BOARD MEMBER WASHINGTON: All right. Thank you.

13          And so, Madam Chair, I'm not prepared to support  
14 this. I think there's a number of issues that are  
15 involved here. I didn't hear very much about the margin  
16 of error. And there's an undue consequence that does  
17 exist, Ms. Peace, in California. And there's a reality to  
18 what we're doing here as it relates to businesses. And  
19 the small businesses and those other folks will be  
20 affected by this. And I think all these things should be  
21 taken into consideration before we begin this  
22 certification process.

23          So I'm probably the loner up here on this issue,  
24 but I think some more work needs to be done here. I think  
25 there needs to be more discussions taking place.

1           And, you know, with that, Madam Chair, whatever  
2 the Board wants to do, I'm not going to support it today.

3           CHAIRPERSON MOULTON-PATTERSON:   Okay.   Thank you.  
4           Mr. Paparian.

5           BOARD MEMBER PAPARIAN:   Thank you, Madam Chair.

6           And I understand but respectfully disagree with  
7 my colleague, Mr. Washington.   I think we're ready for  
8 this one.

9           And I'll go ahead and move Resolution 2004-185,  
10 consideration of the Rigid Plastic Packaging Container,  
11 All-Container, and Polyethylene Terephthalate (PET)  
12 recycling rates to be used for compliance year 2004.

13          BOARD MEMBER PEACE:   Second.

14          CHAIRPERSON MOULTON-PATTERSON:   Okay.   We have a  
15 motion and a second.

16          Did you wish to comment, Ms. Marin, before we  
17 vote?

18          BOARD MEMBER MARIN:   Yes, Madam Chair.   Thank you  
19 for the courtesy.

20          One of the things that -- if we were not to vote  
21 on this today, if this were to go down, then we would need  
22 to give staff very clear direction as to what is it that  
23 needs to be brought back.   I appreciate the concern of Mr.  
24 Washington, and my concern as well is, if we're going to  
25 ask industry to do something specific, and what we have is

1 only best-guess estimates with some margin of errors --  
2 and we all deal with margin of errors, but I would be -- I  
3 would be remiss, Madam Chair, that we would be voting on  
4 something where there is still some serious concerns about  
5 the numbers themselves. And I don't know if we will ever  
6 have real hard numbers on this one.

7 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

8 Okay. I'm going to call for the question. We  
9 have a motion by Mr. Paparian, seconded by Ms. Peace, to  
10 approve resolution 2004-185.

11 Please call the roll.

12 SECRETARY WADDELL: Marin?

13 BOARD MEMBER MARIN: No.

14 SECRETARY WADDELL: Mulé?

15 BOARD MEMBER MULÉ: No.

16 SECRETARY WADDELL: Paparian?

17 BOARD MEMBER PAPARIAN: Aye.

18 SECRETARY WADDELL: Peace?

19 BOARD MEMBER PEACE: Aye.

20 SECRETARY WADDELL: Washington?

21 BOARD MEMBER WASHINGTON: No.

22 SECRETARY WADDELL: Moulton-Patterson?

23 CHAIRPERSON MOULTON-PATTERSON: Aye.

24 We have a tie vote.

25 Ms. Carter.

1 CHIEF COUNSEL CARTER: Madam Chair, in that  
2 situation the matter does not go forward. You can  
3 certainly give staff direction to come back at a later  
4 point in time if that's what you'd prefer.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. I --

6 DEPUTY DIRECTOR WOHL: Can I just comment?

7 CHAIRPERSON MOULTON-PATTERSON: Ms. Wohl.

8 DEPUTY DIRECTOR WOHL: I don't know if staff can  
9 actually do anything else with this.

10 CHAIRPERSON MOULTON-PATTERSON: I know.

11 DEPUTY DIRECTOR WOHL: So I think if you're at  
12 that point, then you should make the motion the other way,  
13 which is that you're not ready to commit to a recycling  
14 rate. But we're not in a position to get any more data or  
15 anything else. We've sort of given you the trend data,  
16 what we think is the rate. And we're just at the point of  
17 either accepting a rate or not accepting a rate. I don't  
18 know if any more discussion can get us any closer to a  
19 rate.

20 CHAIRPERSON MOULTON-PATTERSON: I hear you. And  
21 I do want to thank the staff very, very much. I know this  
22 is a real tough one and you've worked very, very hard on  
23 it. And, you know, we've had many discussions on it.

24 Ms. Peace.

25 BOARD MEMBER PEACE: So if we don't adopt a rate,

1 this doesn't go through and we don't adopt a rate, then  
2 you don't do certifications?

3 DEPUTY DIRECTOR WOHL: That's correct.

4 BOARD MEMBER PEACE: But then if the Chesbro bill  
5 passes over in the Senate, does that mean then we will be  
6 then required to do certifications next year?

7 DEPUTY DIRECTOR WOHL: Right, I would assume that  
8 would go forward for -- beginning 2004 for the 2005 year,  
9 yeah.

10 BOARD MEMBER PEACE: Okay. Thank you.

11 CHAIRPERSON MOULTON-PATTERSON: One way we could  
12 do it is if -- would take a look at Option 2, adopting the  
13 rate but not conducting the certification. Is that a way  
14 we could go? Would that be a compromise?

15 Ms. Mulé, would you like to try that one?

16 BOARD MEMBER MULÉ: Okay. I move that we adopt  
17 Option 2 for -- now, would that be resolution 2004-185  
18 or --

19 DEPUTY DIRECTOR WOHL: It's just as revised. So  
20 the same number as revised.

21 BOARD MEMBER MULÉ: Oh, as revised. Okay.

22 Okay. As revised. And Option 2 would be to  
23 adopt the all-container rate of 23.9 percent and a PET  
24 recycling rate of 31 percent to be used for the 2004  
25 compliance year. And direct staff not to conduct

1 certification.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. Do we have  
3 a second on that?

4 BOARD MEMBER MARIN: I'll second that.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
6 motion by Ms. Mulé, seconded by Ms. Marin, to approve  
7 Option 2 to adopt -- and that was stated on the record by  
8 Ms. Mulé.

9 Please call the roll.

10 SECRETARY WADDELL: Marin?

11 BOARD MEMBER MARIN: Aye.

12 SECRETARY WADDELL: Mulé?

13 BOARD MEMBER MULÉ: Aye.

14 SECRETARY WADDELL: Paparian?

15 BOARD MEMBER PAPARIAN: I'm sorry. I wanted to  
16 ask -- I don't understand the motion, and I wanted to ask  
17 a question --

18 CHAIRPERSON MOULTON-PATTERSON: Well, it's Option  
19 No. 2.

20 BOARD MEMBER PAPARIAN: I understand.

21 So we would be adopting this rate, but  
22 instructing staff not to enforce the law, as I read the  
23 motion.

24 DEPUTY DIRECTOR WOHL: Well, the Board has  
25 discretion always on whether to do the certifications or

1 not. Whether the rate is above or below, they still have  
2 an option to do that.

3 BOARD MEMBER PAPARIAN: So the meaning of the  
4 rate would be -- we would adopt a rate, but we wouldn't  
5 enforce that rate in any way. We wouldn't go out and  
6 enforce it. It would be to me a meaningless rate. But I  
7 want to make sure I'm understanding. That's why I'm  
8 asking, I want to understand --

9 DEPUTY DIRECTOR WOHL: I think you're correct. I  
10 think the only thing it does is send a message that we  
11 feel it's below 25 percent and that efforts need to be  
12 made to, you know --

13 BOARD MEMBER PAPARIAN: Right. But who's the  
14 message -- yeah, I don't see the message getting anywhere.  
15 I have to vote no. I don't see this -- it doesn't seem  
16 the right way to go. I think we would have to really get  
17 into the heart of what we're going to do in lieu of  
18 enforcing the law. So I vote no on this.

19 CHAIRPERSON MOULTON-PATTERSON: Okay. Continue  
20 please.

21 SECRETARY WADDELL: Peace.

22 BOARD MEMBER PEACE: I don't particularly like it  
23 either, but I'll vote aye.

24 SECRETARY WADDELL: Washington?

25 BOARD MEMBER WASHINGTON: Aye.



1 SECRETARY WADDELL: Moulton-Patterson?

2 CHAIRPERSON MOULTON-PATTERSON: Aye.

3 Okay. Thank you.

4 We'll take a short break right now.

5 Oh, just a moment.

6 Okay. We have a little bit of an emergency.

7 SMUD has had a substation go down and they're asking for  
8 help. So we're going to be turning off the lights to  
9 minimum in the back. The airconditioning will be set  
10 higher. And if your computer is on upstairs, please turn  
11 it off in order to cooperate with SMUD.

12 Thank you. And we'll take a ten-minute break.

13 (Thereupon a recess was taken.)

14 CHAIRPERSON MOULTON-PATTERSON: I think we're  
15 going to go ahead and get started.

16 Good morning to Ms. Cole. Nice to see you.

17 Okay. I have no ex partes.

18 Mr. Marin, do you have any?

19 BOARD MEMBER MARIN: No, I don't.

20 CHAIRPERSON MOULTON-PATTERSON: Mr. Washington?

21 BOARD MEMBER WASHINGTON: Yeah, one person.

22 Randy Pollack with Item 17.

23 CHAIRPERSON MOULTON-PATTERSON: Okay. Mr.  
24 Paparian?

25 BOARD MEMBER PAPARIAN: Just Kit Cole and also

1 George Larson.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

3 Ms. Peace?

4 BOARD MEMBER PEACE: No, I just said hi to Kit  
5 Cole and George Larson and John Cupps.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. Ms. Mulé?

7 BOARD MEMBER MULÉ: I just said hello to Kit Cole  
8 and Mr. Larson.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

10 Okay. We're going to go to -- Ms. Packard, are  
11 you ready?

12 Okay. We'll be going to Item No. 30 now.

13 ASSISTANT DIRECTOR PACKARD: Thank you, Madam  
14 Chair. Rubia Packard with the Policy Office.

15 I'm here today to introduce Agenda Item 30, which  
16 is the presentation by the contractor of a report on the  
17 study to assess methods to increase public and community  
18 participation in Board processes. This was Contract No.  
19 IWM-C0206.

20 This item is a presentation of the report on the  
21 study which was conducted by the contractor, the  
22 University of California Santa Cruz through the Center for  
23 Justice, Tolerance and Community at the University. It  
24 provides the Board with recommendations on how the Board  
25 may effectively increase participation in

1 community-based -- the participation of community-based  
2 groups in the Board's activities, grants and processes.  
3 This is the final presentation and the final report.

4 Before I introduce Dr. Pastor who will be making  
5 the presentation, I did want to address a question that  
6 came up in one of the briefings.

7 The recommendations in this report center on  
8 public participation and community involvement and to  
9 outreach.

10 We are also in the process of working with Cal  
11 EPA on the environmental justice strategy for the boards  
12 and departments and also the EJ action plan that Secretary  
13 Tamminen has put forth for implementation. And so we  
14 wanted to make sure that the recommendations in this  
15 report are consistent with the recommendations and  
16 approach in the EJ strategy that we -- the work group is  
17 working on. It is entirely consistent. The EJ strategy  
18 that we will be working on addresses more than public  
19 participation. Public participation is one of the full  
20 four goal areas of that EJ strategy.

21 So there is a lot in our report that will be --  
22 you'll be hearing about today that is almost exactly the  
23 same as the information that's in the EJ report. So I  
24 just wanted to make sure you knew that there is definitely  
25 a consistency there.

1           And so I'll let Dr. Pastor go ahead and go  
2 through the report. And then we can answer any questions.

3           CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.  
4           Welcome.

5           DR. PASTOR: Thank you.

6           (Thereupon an overhead presentation was  
7 Presented as follows.)

8           DR. PASTOR: So we -- can you bring the slide up.

9           DR. PASTOR: Okay. Well, at least the Board can  
10 watch this. And perhaps the audience can as well in a  
11 minute.

12           Thank you for that introduction. Yes, and  
13 there's a great degree of consistency between the EJ  
14 recommendations at the state level and what's in this  
15 report.

16           (Thereupon an overhead presentation was  
17 Presented as follows.)

18           DR. PASTOR: I also wanted to begin with two  
19 things: One is I wanted to acknowledge in I also spoke to  
20 Kit Cole during the break. It seems like everyone did.  
21 It's good to see her.

22           And the second is that I wanted to congratulate  
23 the Board on making a very important decision with regard  
24 to environmental justice yesterday, which was the decision  
25 to provide the funding for the removal of the concrete at

1 La Montana and Huntington Park. That's the good news. I  
2 hear the bad news is that after the recent Pistons victory  
3 that Los Angeles Lakers fans are asking that it all be  
4 removed and put into Detroit as a --

5 (Laughter.)

6 CHAIRPERSON MOULTON-PATTERSON: That sounds good  
7 to me.

8 DR. PASTOR: Okay. So what we're going to do  
9 today -- and I'll try to do it very quickly because I  
10 realize that time is short -- is to review our final  
11 report and our recommendations with regard to  
12 participation. You'll see that what's at least one other  
13 part of this has to do with quantitative work as well and  
14 recommendations with regard to future quantitative work.

15 It's been a work of a lot of different  
16 researchers -- myself; Rachel Rossner, who's testified  
17 before you before, but has not been able to come today.  
18 While we are here today giving birth to this report with  
19 you, she is quite pregnant and may be giving birth to  
20 something far more important probably than this report.  
21 So she was unable to make it. And a number of other  
22 researchers who are both community based and university  
23 based. We especially want to thank Rubia packard and then  
24 Kit Cole while she was here at CIWMB for their assistance  
25 in putting the work together to do this.

1                               --o0o--

2               DR. PASTOR: We were asked to provide the  
3 environmental justice context for your decision-making and  
4 to focus specifically on the issues of public  
5 participation. We did this by looking at an analysis of  
6 the environmental justice context in the state,  
7 particularly for CIWMB-regulated facilities, by trying to  
8 provide some presentations to you along the way and then  
9 doing a lot of interviews with community members and to  
10 find out what their sense of things were. And then to do  
11 a lot of research around the country on what are best  
12 practices with regard to community participation in the  
13 field of environmental justice.

14                              --o0o--

15              DR. PASTOR: The report, which you probably have  
16 before you, includes an executive summary of course. And  
17 you'll see that in the handouts you've got -- and anybody  
18 in the audience who wants this can as well have it -- is a  
19 the Spanish translation of the executive summary, which we  
20 have provided as well, again along the lines of making  
21 sure that we reached the communities that are affected but  
22 sometimes aren't part of the process.

23              So there's an introduction in context. And  
24 basically you'll see the presentation will follow sort of  
25 the order of this report.

1           The context generally for the report is that  
2 California really has been in a leadership role with  
3 regard to environmental justice policy. While there have  
4 been national mandates, California with SB 115, numerous  
5 other legislation, and recently Secretary Tamminen's  
6 leadership has really been leading on the question of  
7 environmental justice. This is a state where there's been  
8 a lot of active organizing around these issues. It's also  
9 a state where there's been an established pattern of  
10 inequity by race and income with regard to environmental  
11 disamenities. There's been very little research on CIWMB  
12 facilities per se, but there's been a lot of research on  
13 the kinds of facilities regulated by DTSC on air  
14 resources, et cetera, and that has established a general  
15 sense of environmental inequity which leads to a  
16 perceptual field that influences how people think about  
17 CIWMB facilities as well.

18           And as you know, there's an Environmental Justice  
19 Advisory Committee. And this is beginning to work its way  
20 through Cal EPA and has a lot of recommendations with  
21 regard in particular to public participation, our focus.

22                               --o0o--

23           DR. PASTOR: Part of what we did in our work --  
24 and the other Board members have seen this before, but I  
25 thought for the two new Board members it would be useful

1 to take just two minutes and talk about the basic  
2 findings -- was we decided it important to understand  
3 whether or not there was in fact a problem with regard to  
4 CIWMB facilities that lead to an issue around  
5 environmental justice. So we did the kind of analysis  
6 typical of environmental justice efforts, where you locate  
7 facilities in the state, where you create buffer zones  
8 around them to figure out what the census tracks or census  
9 block groups are that are affected, potentially within the  
10 range of these facilities, and then to look at the  
11 demographics and income levels.

12 --o0o--

13 DR. PASTOR: As the CIWMB staff knows, we wound  
14 up mapping all active and permitted disposal sites,

15 --o0o--

16 DR. PASTOR: Active and permitted transfer sites,

17 --o0o--

18 DR. PASTOR: And active and permitted waste tire  
19 sites. And there's sort of two basic findings which are  
20 interesting for you.

21 --o0o--

22 DR. PASTOR: One is that on the issue of  
23 landfills, at first glance they do not seem to be  
24 disproportionately located near minority or low income  
25 areas. However, once one controls for the fact that most



1 of these are actually in rural areas, which tend to be  
2 more white in the state than urban areas, there's a  
3 disproportionality by race in both rural and urban areas,  
4 although it's not a very big disproportionality.

5 --o0o--

6 DR. PASTOR: With regard to transfer stations and  
7 waste tire sites, those are disproportionately in urban  
8 areas and they are also far more likely to be located near  
9 minority and low-income areas. And that result holds even  
10 when you do more fancy statistical work in order to  
11 control for the degree of urbanization and the population  
12 density, et cetera, in the area.

13 So there is both a general perception in the  
14 state of environmental inequity and there's a particular  
15 set of issues with regard to CIWMB active and permitted  
16 facilities.

17 I wanted to say that I want to thank a lot the  
18 permitting staff for helping us with understanding both  
19 the data and then helping to understand these results as  
20 we move forward.

21 --o0o--

22 DR. PASTOR: With regard to this quantitative  
23 piece we're able to establish that there are some issues  
24 that are out there. And we have two recommendations with  
25 regard to the quantitative data, both that we collected

1 and then might be collected.

2           One is that the California Waste Stream Profiles,  
3 which is available on the CIWMB website helps people look  
4 at the issue of the demographics near any particular  
5 facility. But the data that's there in fact is from 1990.  
6 The race data and ethnic data is not collected in the way  
7 that most of the modern researchers are using it. And  
8 there remains something to be done with regard to that.  
9 Still, it's a very good first step. And it might be very  
10 useful to think about making that data more accessible  
11 and, in particular, more accessible for geographic mapping  
12 and analysis and for tying into the 2000 census data,  
13 which currently the waste stream profiles at least is not.

14           And we believe that this making this statewide  
15 data more accessible would help with the facilitation of  
16 community voice in meetings, et cetera.

17                               --o0o--

18           DR. PASTOR: The second thing that we think would  
19 be helpful with regard to the quantitative side is trying  
20 to develop an ongoing capacity for staff and outside  
21 researchers, partly through this data development that  
22 we're talking about, to evaluate the degree of demographic  
23 disparity in siting decisions and to see how much of an  
24 issue it really is. This would help build some trust in  
25 the directions that the Board is taking. It would provide

1 some targets and goals for improvement, and also provide  
2 some measures for evaluation and accountability.

3           We had some very rich discussions with the  
4 permitting staff about the results that we were finding.  
5 And there's actually a number of very interesting research  
6 projects that could be launched as a result of this,  
7 including looking at longitudinal studies to ask the  
8 question of which came first, the facility or the  
9 neighborhood; doing work as well to try to look at the  
10 degree of -- or the size of a facility relative to the  
11 community it's affecting, et cetera. There's a lot of  
12 really interesting work.

13           I must commend the permitting staff that was  
14 willing to have as nerdy a discussion as I wanted to have  
15 about statistical work and GIS locations. You got a good  
16 group of people there. And we think it might be a very  
17 good idea to continue to develop this quantitative base  
18 that is useful in thinking about environmental justice.

19                               --o0o--

20           DR. PASTOR: We presented to you earlier a model  
21 with regard to community participation which talked a lot  
22 about the fact that there's a difference between having a  
23 reactive role, where what you have is a kind of situation  
24 which decisions are made, a defense of those decisions get  
25 made; and a proactive role, where you do a lot of

1 community involvement from the start. And this is the  
2 kind of thing that the EJ Advisory Group has been asking  
3 for and that constitutes the recommendations that we make  
4 in this report.

5 --o0o--

6 DR. PASTOR: I could give you a whole lot of  
7 details, but I know time is short. And what I'm going to  
8 do is to just sort of give you the highlights. Actually  
9 there's a whole analysis of what communities were saying.  
10 I urge you to read the report. I realize that you're very  
11 busy people. But I got to tell you, it's just like one of  
12 those great reports that, you know, like if late at night  
13 when you're really excited about reading something, this  
14 would be really a charming thing for you to look at. But  
15 what I'm going to do here is just tell you a few --  
16 basically jump straight to the recommendations of the  
17 report.

18 So to address community issues and perceptions  
19 that we report on which were not uniformly positive, for  
20 sure, about the CIWMB process, some of which has to do  
21 with confusions on the community's part, some of which has  
22 to do with actual practices, to address these community  
23 concerns we talk about partnering with community-based  
24 organization through the provision of small grants.  
25 Because one of the key things to do is to provide

1 technical capacity and to help utilize community groups in  
2 doing outreach. It's being done in a lot of other places  
3 around the country.

4           The other is to continue staff training on  
5 environmental justice issues. We found this to be useful  
6 in other environmental agencies to be able to talk through  
7 the data issues and best practices and participation from  
8 elsewhere in the country, and to perhaps designate an  
9 environmental justice focus staff position within CIWMB to  
10 deal with these issues as they come up.

11                               --o0o--

12           DR. PASTOR: We also suggest -- and this is  
13 something that the Southern California Air Quality  
14 Management District has done with I think great success --  
15 to try to develop a statewide complaint resolution  
16 protocol. There are forms that people can use to file  
17 complaints. They're often quite confused about whether  
18 they should be complaining to the Integrated Waste  
19 Management Board or whether they should be complaining to  
20 the LEA. There's a lot of confusion about that. And I  
21 think making that process a lot clearer and thinking a lot  
22 about the kinds of ways in which a resolution protocol,  
23 which has a lot more steps to it than just a complaint  
24 form, might be useful. I'll talk about that in a minute.

25                               --o0o--

1 DR. PASTOR: And then, finally, one of the things  
2 that communities say about any agency, and including  
3 reports that we got with regard to community perceptions  
4 of CIWMB, is it's hard for them to track where the  
5 community input gets institutionalized into the  
6 decision-making process. So one thing that's increasingly  
7 being done is after a decision is made to try to document  
8 what the public participation was and actually how it  
9 might have influenced or not influenced the decision.

10 --o0o--

11 DR. PASTOR: We talk a lot in the report about  
12 community competency. You've probably heard the term. By  
13 the way, I apologize if I'm talking too fast. I could  
14 also do this in Spanish. It would even be faster.  
15 Although I think not everyone would understand it. But  
16 I'll slow down a bit here.

17 The community competency piece comes from a term  
18 that probably many of you have heard of called cultural  
19 competency. Cultural competency refers to the ability to  
20 make presentations and facilitate meetings in a variety of  
21 difference ethnic groups, community groups, income levels,  
22 et cetera. We think it's better to call it community  
23 competency, because there's a lot of different kinds of  
24 communities of interest, and the ability to move between  
25 them and make effective presentations and facilitate

1 meetings is very crucial.

2           With regard to community competency, this is  
3 something that's coming also from the EJ Advisory Group,  
4 the whole notion of making sure there's adequate funds to  
5 allow the various Cal EPA agencies to implement the EJ  
6 recommendations and to provide this community competency  
7 training for staff administrators and boards.

8                               --oOo--

9           DR. PASTOR: We talk in the report about  
10 community collaborations and partnerships and how to pull  
11 that together. We also talk about the need to make sure  
12 that one goes beyond the mainstream environmental groups  
13 that are often quite involved and already engaged in these  
14 issues and reach out to the diverse environmental justice  
15 groups that, for example, were a very key part of what the  
16 California Environmental Protection Agency as a whole did  
17 with regard to collecting the voices that were necessary  
18 for the report that was -- eventually led to the set of  
19 recommendations from the Environmental Justice Advisory  
20 Group.

21           And obviously there's some very competent groups  
22 in the state, Communities for a Better Environment,  
23 Environmental Health Coalition, many others that had  
24 representatives in that process and have some technical  
25 capacity and also could be very useful in the planning

1 processes as you move forward.

2 --o0o--

3 DR. PASTOR: With regard to policy, we talk in  
4 the report about providing better guidelines with regard  
5 to public participation and addressing environmental  
6 justice issues. In Massachusetts, for example, one of the  
7 things that has been done, and it seems to be done very  
8 effectively, was to try to come up with some definition of  
9 what an environmental justice community was, that is, low  
10 income, minority, maybe disproportionately affected by  
11 multiple hazards or multiple sources of pollution, and  
12 then to use some of the particular resources to really  
13 address community participation and address policy making  
14 in those areas, areas which may in fact be subject to  
15 disproportionate proximity to hazards and also cumulative  
16 exposures, that is, multiple sources and not just one.  
17 Which we realize is definitely an issue on community minds  
18 an it's also one that leads to some times misdirected  
19 anger about one agency which can in fact control just one  
20 of the kinds of hazards that's there.

21 So also with regard to these best practices,  
22 there's a difference -- and, again, we suggest looking at  
23 what Air Quality Management District has been doing in  
24 southern California and also what CARB has been up to with  
25 regard to a complaint resolution protocol which would go



1 beyond complaint forms and really indicate standard  
2 response time, make much clearer to the community where --  
3 because there's confusion right now about where complaints  
4 should be directed, and that confusion leads to people  
5 actually not filing the complaint or not knowing how to  
6 follow through. And getting a bit more feedback to the  
7 community groups that do make the complaints, this would  
8 be something being used by many other agencies around the  
9 country.

10           The other thing that has been discussed in many  
11 locations is the real need for community groups to have  
12 technical assistance. Participating in discussions about  
13 hazards without necessarily knowing all of the technical  
14 parts of that turns out to be very uneven in terms of both  
15 power relations and information relations for community  
16 members. And there is a number of good examples of places  
17 around the country which have really helped to bring this  
18 technical assistance piece forward.

19           I'm going to ask by colleague, Breana, to step up  
20 for just 30 seconds and say something about one of those  
21 examples.

22           Breana.

23           MS. GEORGE: One of the examples of technical  
24 outreach to communities that we wanted to highlight that  
25 comes from our report is an example from Buddios Anidos in

1 Phoenix, Arizona. And this is a community organization  
2 that has sought assistance to technical outreach services  
3 for communities to address air pollutions from traffic,  
4 industry and waste management. This is a community that  
5 surrounds the Phoenix airport and has consolidated into a  
6 group called Neighborhoods For Justice. And they have  
7 asked technical outreach services for communities to  
8 prepare educational summaries of technical reports to  
9 assist the community in tracking the status of air quality  
10 permits for entities located near their neighborhood.  
11 They were awarded the TOSC assistance based on a high  
12 level of community organizing and, in addition, their  
13 profile as low income community of color.

14 So that's one of the examples that we have.

15 DR. PASTOR: And, again, these examples are  
16 useful that are chockful in the report often in boxes.  
17 They come from fields not necessarily around waste  
18 management per se, but they show practices in other  
19 environmental policy arenas.

20 I did want to mention too that Breana is one of  
21 our youngest staff people, and recently graduated from  
22 college. Congratulations, Breana. I think this is her  
23 first big testimony in front of a board like this. So  
24 congratulations.

25 --o0o--

1 DR. PASTOR: We talk next about education and  
2 capacity building. Again, I think it's very important to  
3 think about the issue of communities being ready to  
4 participate. It's one thing to invite people to the  
5 table. It's another for them to have the technical  
6 capabilities to be able to participate effectively.

7 --o0o--

8 DR. PASTOR: One of things that we talk about  
9 with regard to education and capacity building is to try  
10 to institutionalize having discussions between your agency  
11 staff and other agency staff on the issues of public  
12 participation and environmental justice, to make sure that  
13 the best practices that people are discovering as the look  
14 around the country and also implementing things themselves  
15 actually get shared between the different agencies. And I  
16 know that some of this is going on.

17 We think that CIWMB may be helpful at providing  
18 education workshops for LEA officials with regard to new  
19 formats for public participation, such things as sharettes  
20 that we'll talk about in just a second.

21 And this is also an issue.

22 --o0o--

23 With regard to marketing and communication, the  
24 website that you currently have is very useful. It could  
25 be -- and the California Waste Stream Profile is a very

1 useful tool there. We made some recommendations in the  
2 report about how to update it and actually make it easier  
3 for people to look at not just a particular facility but  
4 perhaps a region-wide distribution of facilities.

5 We also talk about thinking about different  
6 literacy and language requirements. It's of course one of  
7 the reasons why we wanted to get the executive summary at  
8 least in Spanish. It would have been very hard to  
9 translate the whole report.

10 The other thing that we think is very important  
11 to be thinking about is the way that meetings take place.  
12 There's a tendency for formal meetings to basically wind  
13 up being public standoffs rather than real discussions.  
14 And the whole idea of using non-traditional meeting  
15 techniques, things like sharettes, conversations,  
16 stakeholder advisory groups, et cetera, to arrive at  
17 consensus, may be a very useful way to think about public  
18 participation.

19 And there's a lot of examples of that both with,  
20 for example, the development of this complaint resolution  
21 protocol, and a variety of other examples that we cite in  
22 the report where the notion of having sort of informal  
23 meetings before actually helps avoid public standoffs  
24 later.

25 --o0o--

1 DR. PASTOR: We discuss in the report the notion  
2 of developing a comprehensive public participation  
3 guidebook. DTSC has such a guidebook. CARB has developed  
4 one as well. And this could be very helpful for community  
5 members to think about the public participation process.  
6 It could also be a very useful tool for clarifying the  
7 distinction between the LEA's and the CIWMB, which is not  
8 always clear to the public.

9 And this kind of public participation mettle  
10 could also be used to coach the staff in effective methods  
11 and processes.

12 --o0o--

13 DR. PASTOR: No set of recommendations is good  
14 unless there's also some evaluation and accountability.  
15 And we talk in the report about developing some standards  
16 for public participation, and beginning to think about  
17 accountability with regard to those measures so you can  
18 see how good of a job that you're doing. And making sure  
19 that, first, a baseline of community participation is  
20 established. And that progress is monitored and reported  
21 back to the community as well.

22 --o0o--

23 DR. PASTOR: In the report we also discuss  
24 guidelines for more successful outreach. And we spend  
25 some time talking about -- without really suggesting

1 specifically how you do this, but thinking about creating  
2 diverse and representative stakeholder advisory  
3 committees. They might be site-based. They might be  
4 area-based. I think sometimes the issues around a  
5 particular site might actually be better resolved if one  
6 was thinking about waste management for a larger region.  
7 And thinking about the variety of different facilities at  
8 the same time. Or issue-based. And it might be useful to  
9 try these stakeholder advisory committees -- which, by the  
10 way, you use very effectively in your 2001 strategic  
11 planning process, I believe -- to try to pilot a few  
12 stakeholder advisory committees and evaluate how they do.

13           There's also a variety of other agencies which  
14 have used surveys to try to figure out what the perception  
15 is of stakeholders to the agencies and then be able to  
16 take that into account.

17           And I'm getting to the end, which is good.

18                               --o0o--

19           DR. PASTOR: So in terms of final thoughts. We  
20 think it might be useful to designate an officer, an  
21 individual to take leadership in developing an  
22 implementation plan, particularly with regard to  
23 environmental justice. That's the kind of signal that  
24 communities feel sends a signal of seriousness.

25           We would be interested ourselves in continued

1 research and collaboration with CIWMB staff to establish  
2 some of the empirical baselines that are done in a very  
3 preliminary way in this report. We would suggest that it  
4 didn't necessarily need to be us, but that continuing to  
5 do research on what is the empirical baseline of who lives  
6 near the facilities, who's affected, on how  
7 disproportionate it is when you look at the facilities as  
8 a whole and control for things like the degree and size of  
9 a facility. These are a lot of really interesting issues,  
10 including the which came first issue we discussed earlier.

11 In terms of distributing resources, making sure  
12 that the goal is maximizing community participation, and  
13 with regard to that making sure that one develops an  
14 assessment of the baseline of current practices in order  
15 to be able to measure practice -- progress.

16 --o0o--

17 DR. PASTOR: Now, the real key, kind of a final  
18 point, which I think really -- the first point is that  
19 conflict and collaboration can go hand in hand.

20 But it's often thought that if a meeting is  
21 conflictual, that somehow what's happened is everything  
22 went wrong. Sometimes conflict is because people haven't  
23 been talking together. And a lot of times out of conflict  
24 is born collaboration.

25 There's a very interesting example where we live

1 in the Santa Cruz area where a high school needed to be  
2 built for the City of Watsonville. The only place really  
3 to locate it was on some environmentally sensitive land.  
4 Environmentalists raised a lot of concerns. The  
5 communities, who were very deeply concerned, both the  
6 business community and the Latino community that wanted  
7 this high school built, wound up with the help of Fred  
8 Keely getting into a stakeholder group that negotiated and  
9 came up with a set of compromises which involved actually  
10 putting the high school on environmentally sensitive land,  
11 putting environmental curriculum right near it, and then  
12 basically green-lining or putting boundary lines around  
13 development through the rest of it.

14 And at the end of it there were a couple of  
15 people who were unhappy, but most people were very happy  
16 and it helped forge a consensus which eventually helped  
17 lead to a group in Pajaro Valley, which has been doing  
18 open space and smart growth style development for  
19 Watsonville as a whole.

20 So what looked initially like a big conflict  
21 wound up becoming collaboration. And we try to give a lot  
22 of examples here, because there's a lot of conflict around  
23 dumps and landfills and waste stations, transfer stations,  
24 as you may know. And we do not believe that those  
25 conflicts necessarily eschew the possibility of their



1 becoming collaborations later. But they have to be  
2 managed carefully.

3           One of the things that we would suggest is very  
4 important is representatives who have first contact with  
5 the community around issues -- and those of you in  
6 industry know this -- should anticipate that there'll be  
7 misperceptions and confusions, should anticipate that that  
8 will be frustrating, should anticipate that there'll be  
9 conflict, and develop the kind of patience, training, and  
10 time that leads to long-term effective community  
11 participation and collaboration.

12           And we really think that the state has been  
13 leading in this effort. Cal EPA has clearly made it a  
14 mandate for all of the different agencies. The  
15 Environmental Justice Advisory Group recommendations,  
16 which are in the process of being worked through for the  
17 agency as a whole, are really kind of cut -- be a leading  
18 edge set of recommendations in the country. And we are  
19 optimistic about what you'll be able to do. And we hope  
20 that this report will wind up being useful to you as you  
21 move forward in this task.

22           So thank you.

23           CHAIRPERSON MOULTON-PATTERSON: Okay. I just  
24 want to thank you very much. This is an area that the  
25 Board is very interested in. I sit at this moment on the

1 working group of the environmental justice for Cal EPA and  
2 very, very interested.

3 I think it would be appropriate if we could take  
4 your report -- and Mr. Washington's left for just a  
5 moment. But as Chair, I sit on that committee, and so Ms.  
6 Peace, the educate -- or Committee, Education and Public  
7 Outreach. And we can take this report and spend more time  
8 on it and make some recommendations to the Board, because  
9 I think it's a very, very important. And I thank you very  
10 much. And thank you for your first presentation down  
11 there, Breana.

12 Thank you. You did a great job.

13 And Mr. Paparian had a quick comment.

14 BOARD MEMBER PAPARIAN: Yeah, thank you, Madam  
15 Chair.

16 I mean I do -- that's an outstanding report with  
17 some outstanding recommendations. And as I understand it,  
18 they came in well under the budget that we had provided.

19 CHAIRPERSON MOULTON-PATTERSON: Hey, that's  
20 great.

21 BOARD MEMBER PAPARIAN: So an added bonus there.

22 And, Madam Chair, I like your idea of making sure  
23 this thing gets pursued. I agree with that. I know that  
24 there's a lot happening in public participation right now.  
25 We have AB 1497. We have some C&D requirements. We have

1 other requirements. Other agencies, the ARB and  
2 Department of Toxics, have public participation manuals.  
3 We do not. And I think that's an obvious first step that  
4 comes from the recommendations of this report.

5 And I think there will be others, especially when  
6 we mesh the recommendations of this report with what's  
7 coming out of the environmental justice work at Agency.  
8 So I hope that that can happen soon and hopefully we can  
9 get some regular updates on how we're moving forward with  
10 some of the recommendations from this.

11 CHAIRPERSON MOULTON-PATTERSON: Absolutely. And  
12 I think the first step would be to start on a public  
13 participation manual, as the Air Board has and so forth.

14 So thank you very much.

15 I do have one public speaker on this item. Evan  
16 Edgar of CRRC. And if you would come forward and give us  
17 your comment.

18 And thank you so much. Did you have something  
19 else?

20 DR. PASTOR: Well, I just wanted to thank you  
21 very much for your help and the staff for their help with  
22 doing this report. And it feels good to hear that we  
23 were on time, actually under-budget, and on point.

24 CHAIRPERSON MOULTON-PATTERSON: That's great.  
25 Thank you.

1 Mr. Marin.

2 BOARD MEMBER MARIN: Yeah. I just wanted to say  
3 muchas gracias.

4 DR. PASTOR: Gracias, tambien.

5 And we hope that that translation -- we will try  
6 to make sure that that gets integrated into the full  
7 report right after the executive summary. We had it  
8 translated and we will work on it.

9 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
10 much.

11 Evan.

12 MR. EDGAR: Thank you, Madam Chair and Board  
13 members. Yes, CRRC. Thank you for -- I forgot to mention  
14 it out of the box last time. So I for the California  
15 Refuse Removal Council. And we've been doing locally  
16 based permitting for the last -- well, the last 20 years  
17 or 30 years and see what came into focus.

18 We need this. We need guidance manuals. I've  
19 been testifying in front of the EJ committees and the  
20 Waste Board and getting the tools out to the LEA's and  
21 local governments on how to incorporate EJ issues into the  
22 local permitting process. We've been using the CEQA  
23 process for years in a proactive role. And most recently,  
24 as Mr. Paparian pointed out, for the emerging C&D  
25 regulations and the new solid waste permit revisions under

1 the AB 1847.

2 We are doing this today. We have different  
3 facilities up and down the state where we're hosting EJ  
4 hearings without the guidance manuals that are needed. So  
5 we support the LEA training, the Waste Board training, and  
6 the need to get these tools out there in the field.  
7 Because we have permits coming your way and we're using  
8 the local CEQA process to get the public participation  
9 incorporated. And then we're piggybacking on the back of  
10 that.

11 As the speaker pointed out, we do publish the  
12 executive summary in Spanish language or the local  
13 language that is needed. But we can't produce the entire  
14 report in a second language. And for the same reason,  
15 because of the cost.

16 So we face that everyday in the community on how  
17 to get the message out on executive summaries, on public  
18 noticing in Spanish and second languages. So we're doing  
19 it currently and we look forward to documentation of that  
20 and working with the LEA's on the needed tools they need  
21 in order to piggyback on CEQA for the only process we know  
22 that is currently available to us.

23 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
24 Edgar. We appreciate that.

25 Mr. Paparian, as we go to the next item -- before

1 we go to the next.

2 BOARD MEMBER PAPARIAN: If you could indulge me  
3 for just a moment. I wanted to make an introduction,  
4 someone who has joined us who is smart, handsome,  
5 athletic -- sorry, Evan, sorry John, not you -- my son,  
6 Matthew Paparian, is in the back of the room back there.

7 (Applause.)

8 CHAIRPERSON MOULTON-PATTERSON: Welcome. He can  
9 see his dad in action.

10 BOARD MEMBER WASHINGTON: Madam Chair, I too  
11 would like to make an introduction. I have my cousin with  
12 me, Paul Washington, from Houston, Texas join me here.

13 CHAIRPERSON MOULTON-PATTERSON: Oh, great.  
14 Welcome.

15 (Applause.)

16 CHAIRPERSON MOULTON-PATTERSON: Thank you so  
17 much.

18 BOARD MEMBER WASHINGTON: And he's handsome and  
19 all that.

20 (Laughter.)

21 CHAIRPERSON MOULTON-PATTERSON: Oh, absolutely.  
22 Real glad to have you both.

23 We're going to be going on to Item No. 18,  
24 consideration of a grant award to the Fresno Unified  
25 School District for the School DEEL Environmental

1 Ambassador Pilot Program from reallocation of the  
2 California Used Oil Recycling Fund and the Integrated  
3 Waste Management Account Fund.

4 Ms. Vorhies.

5 MS. MORGAN: Actually it's going to be me.

6 CHAIRPERSON MOULTON-PATTERSON: Oh, I'm sorry.

7 MS. MORGAN: That's okay. I'm acting for Pat  
8 Schiavo. Cara Morgan, Office of Local Assistance.

9 This item is consideration of grant award to the  
10 Fresno Unified School District for the School DEEL  
11 Environmental Ambassador Pilot Program from reallocation  
12 of the California Used Oil Recycling Fund and the  
13 Integrated Waste Management Account Fund.

14 Chris Kinsella of the Office of Local Assistance  
15 will present this item.

16 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

17 MS. KINSELLA: Good morning Madam Chair, members  
18 of the Board.

19 The Fresno Unified School is one of seven school  
20 districts in the state that are included in the  
21 Environmental Ambassador Pilot Program, one of the grant  
22 programs outlined in Senator Torlakson's 373 School DEEL.

23 This item is requesting that Fresno Unified be  
24 granted \$12,857.15 to be used to help the district  
25 implement diversion programs as part of their

1 environmental ambassador workplan. The same grant amount  
2 was previously awarded to each of the six other  
3 environmental ambassadors in the program.

4 Staff has delayed in bringing this item to the  
5 Board earlier because of the complexities of bringing  
6 another education-related program, the School Energy  
7 Efficiency Program, under the Board, of which Fresno  
8 Unified is a part. It was only clarified in the past few  
9 weeks whether the district would continue to be included  
10 in the program and whether that would impact this grant  
11 request item.

12 The district will use these funds for  
13 implementing their environmental ambassador workplan,  
14 specifically diversion activities.

15 This concludes my presentation. Are there any  
16 questions?

17 CHAIRPERSON MOULTON-PATTERSON: I see none.

18 Mr. Washington.

19 BOARD MEMBER WASHINGTON: Yeah, Madam Chair, I'd  
20 like to move adoption of Resolution 2004-170.

21 BOARD MEMBER MARIN: Second.

22 Okay. We have a motion by Mr. Washington,  
23 seconded by Ms. Marin, to approve Resolution 2004-170.

24 Please call the roll.

25 SECRETARY WADDELL: Marin?



1 BOARD MEMBER MARIN: Aye.  
2 SECRETARY WADDELL: Mulé?  
3 BOARD MEMBER MULÉ: Aye.  
4 SECRETARY WADDELL: Paparian?  
5 BOARD MEMBER PAPARIAN: Aye.  
6 SECRETARY WADDELL: Peace?  
7 BOARD MEMBER PEACE: Aye.  
8 SECRETARY WADDELL: Washington?  
9 BOARD MEMBER WASHINGTON: Aye.  
10 SECRETARY WADDELL: Moulton-Patterson?  
11 CHAIRPERSON MOULTON-PATTERSON: Aye.  
12 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.  
13 That brings us to the Special Waste portion of  
14 our agenda. And I believe we're on No. 25.  
15 Mr. Lee.  
16 DEPUTY DIRECTOR LEE: Yes, thank you, Madam  
17 Chair. And good morning, Board members.  
18 Item No. 25 is consideration of scope of work and  
19 the contractor for the 2005 Used Oil Recycling/Household  
20 Hazardous Waste Conference Contract, Fiscal Year 2003-2004  
21 Oil Fund Contract Concept No. 0-16.  
22 Kristin Yee will make the staff presentation.  
23 MS. YEE: Good morning, Madam Chair and Board  
24 members. I'm here to present the scope of work and the  
25 contractor for the 2005 Used Oil Recycling/Household

1 Hazardous Waste Conference.

2 This contract is for \$130,000, and it's for the  
3 planning and coordination of the 2005 conference that will  
4 be held in southern California.

5 What we do every year is that we rotate it  
6 between northern California and southern California. And  
7 the reason why we have these conferences is for many  
8 reasons. One is that it's the only statewide conference  
9 that we have where we bring together all of the  
10 stakeholders to share information and to also get  
11 technical assistance. We also have two days of training.  
12 It's also the best opportunity for us to foster the  
13 sharing of information between all the stakeholders.

14 It also allows our grantees to establish regional  
15 partnerships and to network. It gives them the  
16 opportunity to gain knowledge and information on used oil  
17 and HHW.

18 So there is a two-day training that we usually  
19 give and then three days of conference. And this  
20 conference really is essential for the growth and success  
21 of the used oil and HHW program.

22 And this past year we had it in Sacramento, and  
23 we had the privilege of having Board Member Paparian do  
24 our opening remarks. So I hope that each of you will get  
25 the opportunity to either attend the conference or

1 participation, because it really is an extraordinary  
2 conference that we have once a year.

3           What the contractor, which California State  
4 University, will be responsible for is to secure a  
5 facility for us during the -- for the event in southern  
6 California, to coordinate the logistics of the conference,  
7 and to put together the conference graphics, our  
8 conference guide, as well as our registration.

9           They we also coordinate all of the registration  
10 for our attendees, our vendors, and our speakers. They'll  
11 also do on-site coordination at the conference as well as  
12 giving us a final report at the end.

13           So --

14           CHAIRPERSON MOULTON-PATTERSON: Ms. Marin, did  
15 you have a question now?

16           BOARD MEMBER MARIN: No. I'd like to move the  
17 item, Resolution 2004-154.

18           MS. YEE: Oh, okay.

19           CHAIRPERSON MOULTON-PATTERSON: Okay. Could you  
20 tell me when the conference is? What are the dates? Did  
21 you -- you might have already said that.

22           MS. YEE: We haven't exactly set it. But what  
23 we're trying to do is to get it for the same timeframe,  
24 which would be the end of March of each year, so that it  
25 will become a routine for grantees to know that it's an

1 annual conference in March.

2 CHAIRPERSON MOULTON-PATTERSON: Oh, Okay.

3 MS. YEE: But we haven't found the facility yet.

4 CHAIRPERSON MOULTON-PATTERSON: Great. Thank  
5 you.

6 Ms. Mulé.

7 BOARD MEMBER MULÉ: Just have a quick question.

8 Does part of that, the scope of this work include  
9 conference evaluation, or do you --

10 MS. YEE: Yes

11 BOARD MEMBER MULÉ: Okay, that's -- thank you.

12 CHAIRPERSON MOULTON-PATTERSON: Okay. Back to  
13 Ms. Marin for the motion.

14 BOARD MEMBER MARIN: Just move approval of the  
15 item.

16 BOARD MEMBER PAPARIAN: Second.

17 CHAIRPERSON MOULTON-PATTERSON: Okay. And we  
18 have two resolutions, Resolution 2004-154 and 159, motion  
19 by Marin -- who seconded it? -- Paparian.

20 Without objection, please substitute the previous  
21 roll call.

22 Thank you very much.

23 Item No. 26.

24 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

25 Item No 26 is consideration of the scope of work

1 and the contractor for the Used oil Certified Center  
2 Outreach Contract, Fiscal Year 2003-2004 Used Oil Program  
3 Contract Concept No. 0-17.

4 Jim Cropper will make the staff presentation.

5 MR. CROPPER: Good morning, Madam Chair and Board  
6 members. I'm Jim Cropper of the Special Waste Division,  
7 Used Oil Program. And I'll be presenting Agenda Item 26,  
8 consideration of the scope of work and the contractor for  
9 the Used Oil Certified Center Outreach Contract.

10 The purpose of this contract is to research the  
11 barriers of businesses becoming certified used oil  
12 collection centers and strategies to overcome these  
13 barriers. This will allow us to provide tools to help  
14 local jurisdictions recruit auto parts stores as certified  
15 used oil collection centers.

16 The tools developed under this contract would  
17 include a CCC recruitment guide and marketing materials, a  
18 cost benefit study of being a CCC, instructions on how to  
19 use a geographic information system to locate auto part  
20 stores in areas that are underserved by CCC's and identify  
21 the demographics in these areas. Also, a brochure of  
22 sound management practices for a CCC will be developed,  
23 along with two workshops for local jurisdictions  
24 demonstrating how to use the recruitment guide, marketing  
25 materials and GIS maps. And also a presentation of the

1 developed materials at the Used Oil/Household Hazardous  
2 Waste Conference.

3           This contract concept was developed because data  
4 gathered in 2001 showed that auto parts store CCC's  
5 collect approximately 3.7 million gallons of  
6 DIYer-generated used motor oil per year. This amount is  
7 two and a half times greater than the used oil collected  
8 at all other types of CCC's.

9           Current estimates show that only 20 percent of  
10 the auto parts stores in California are enrolled in the  
11 CCC program, indicating many more auto parts stores could  
12 be recruited to collect used oil from the public.

13           Providing tools for grantees to recruit auto  
14 parts stores as CCC's throughout the state in areas of  
15 concentrated DIYers with no existing CCC's would help  
16 increase the volume of used oil recycled because DIYers  
17 are more likely to recycle if they have convenient access  
18 to CCC's. And this is what our research that we  
19 contracted with San Francisco State showed to be true.

20           To select the proper contractor to perform the  
21 scope of work staff implemented a two-part selection  
22 process. In the first part staff sent the draft scope of  
23 work and a series of questions to three potential  
24 contractors with statistical survey and behavior marketing  
25 expertise at California State Universities.

1           These CSU's included CSU Sacramento, San Marcos  
2 and San Francisco. The potential contractors were  
3 provided written responses and were also interviewed.

4           From this two-part selection process, staff  
5 determined that California State University Sacramento  
6 would be the best contractor to complete this project.

7           And a representative from the CSU Sacramento is  
8 here if you have any questions of him.

9           The contract concept for this scope of work was  
10 approved at the November 2003 Board meeting. At this  
11 Board meeting the Board allocated \$175,000 for the CCC  
12 outreach contract for Fiscal Year 2003-2004 under the Oil  
13 Fund Contract Concept No. 0-17.

14           Now I'd ask and recommend that the Board approve  
15 the proposed scope of work with the California State  
16 University of Sacramento as the contractor for the Used  
17 Oil Certified Center Outreach Contract and adopt  
18 Resolution Nos. 2004-155 and 2004-156.

19           CHAIRPERSON MOULTON-PATTERSON: Thank you.

20           Mr. Washington.

21           BOARD MEMBER WASHINGTON: Very brief, Madam  
22 Chair.

23           The contractor is the California State University  
24 Foundation?

25           MR. CROPPER: Correct.

1 BOARD MEMBER WASHINGTON: And the Foundation --  
2 how does that work? Tell me, how did you get the  
3 Foundation as the contractor?

4 MR. CROPPER: Do you want to answer?

5 MR. TOOTELIAN: Thank you.

6 I'm Dennis Tootelian. I'm on the faculty of the  
7 College of Business at California State Sacramento.

8 The contracts that the university does are  
9 through the Foundation, and then they contract with us.  
10 And in this case I'd be the principal investigator.

11 BOARD MEMBER WASHINGTON: All right.

12 CHAIRPERSON MOULTON-PATTERSON: Thank you for  
13 being here.

14 Mr. Washington -- oh, Ms. Marin, did you have a  
15 question before the motion?

16 BOARD MEMBER MARIN: Yes I do. And the question  
17 goes back to the previous presentation with the  
18 environmental justice.

19 I would presume -- and maybe I'm incorrect --  
20 that some of the collection facilities may not necessarily  
21 be quite -- quite big or -- numerous rather in certain  
22 areas of the state where ethnic minorities may be located.

23 Would you please -- and I actually meant to ask  
24 this of the previous question. Would we make a concerted  
25 effort to go to those areas, where I would presume



1 participation is not as desirable as it should be, and  
2 really focus so that more and more ethnic minorities --  
3 see, I know what some people do or how they do not handle.  
4 And I know it because in Huntington Park we used do as  
5 much as we could. But I know the challenge that  
6 communities like mine were having in trying to get people  
7 to participate. But I also know that there were not as  
8 many centers as there should be.

9           So if I may, madam Chair, I think that we do need  
10 to have emphasis in those areas where we know that is  
11 lacking. And I would leave it all up to you to do that.

12           CHAIRPERSON MOULTON-PATTERSON: Would you like to  
13 address that, Mr. Lee, or --

14           MR. CROPPER: That's one of the purposes of this  
15 contract, is to provide tools to local government so that  
16 they would be able to use GIS maps so that they would be  
17 able to see where existing certified collection centers  
18 are, where there are auto parts stores, and then to look  
19 at what the demographics are in that area so they would be  
20 able to target the auto parts stores and the people in  
21 that area.

22           CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you  
23 very much.

24           Mr. -- I think Mr. Washington wanted to move it.

25           BOARD MEMBER WASHINGTON: Thank you, Madam Chair.

1 I'd like to move adoption of Resolution 2004-155,  
2 scope of work, as well as Resolution 2004-156, contractor  
3 for the Used Oil Certified Outreach Contract.

4 BOARD MEMBER MARIN: Second.

5 Okay. We have a motion by Mr. Washington, second  
6 I by Ms. Marin, to approve Resolution 2004-155 and 156.

7 Please call the roll.

8 SECRETARY WADDELL: Marin?

9 BOARD MEMBER MARIN: Aye.

10 SECRETARY WADDELL: Mulé?

11 BOARD MEMBER MULÉ: Aye.

12 SECRETARY WADDELL: Paparian?

13 BOARD MEMBER PAPARIAN: Aye.

14 SECRETARY WADDELL: Peace?

15 BOARD MEMBER PEACE: Aye.

16 SECRETARY WADDELL: Washington?

17 BOARD MEMBER WASHINGTON: Aye.

18 SECRETARY WADDELL: Moulton-Patterson?

19 CHAIRPERSON MOULTON-PATTERSON: Aye.

20 Okay. On to No. 27.

21 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

22 Item No. 27 is consideration of adoption of  
23 emergency regulations, and request for rulemaking  
24 direction to formally notice amendments to waste tire  
25 hauler registration and manifesting regulations regarding

1   retreaders for the 45-day comment period.

2               Don Dier and Tom Micka will make the staff  
3   presentation.

4               MR. DIER:   Thanks, Jim.

5               Madam Chair, members.

6               Just a quick intro for the benefit of the new  
7   Board members.   We've had a waste tire manifest system in  
8   place since the mid 1990's.   It's been drastically  
9   revamped as a result of some legislation in 2000.   It took  
10   about two and a half years to develop and implement the  
11   new system.   It went into effect last July 1st.

12              Shortly after it was rolled out we heard from the  
13   retreader industry that it was cumbersome and perhaps  
14   unduly burdensome on them given the nature of their  
15   operations.   And we brought this matter to the Board  
16   earlier this year.   Staff recommended that -- and we were  
17   supporting some changes in the reporting for the  
18   retreaders to lighten the reporting requirements.

19              I would really like to just emphasize that this  
20   is not an exemption in any way from the manifesting  
21   requirements.   This is just a different form of reporting.  
22   Okay?   That's really my purpose in the introduction.  
23   Because there's been comments made in the industry and  
24   some publications that this constitutes an exemption.   And  
25   it does not.   We've been very specific in that, when we

1 brought this before the Board in February, we committed to  
2 the Board that we would only bring this back if we were  
3 able to craft regulatory language which was very narrow  
4 and applicable only to real, honest-to-goodness  
5 retreaders. And we feel we've done that.

6 So with that, I'll let Tom make a brief  
7 presentation.

8 CHAIRPERSON MOULTON-PATTERSON: Thank you, Mr.  
9 Dier.

10 WASTE MANAGEMENT ENGINEER MICKA: Good afternoon,  
11 Madam Chair and members of the Board. My name is Tom  
12 Micka.

13 The Board directed staff at the February 2004  
14 Board meeting, as Mr. Dier mentioned, to work with the  
15 retreader industry to draft regulations that would modify  
16 the manifesting procedures under the California Uniform  
17 Waste and Used Tire Manifesting System.

18 To that end staff, in consultation with the  
19 retread industry, developed proposed regulatory changes to  
20 the manifesting procedures. The goal was to be able to  
21 continue capturing information on the casings being  
22 transported by retreaders without compromising the overall  
23 integrity of the manifesting program.

24 Since the printing of the proposed regulatory  
25 changes in BAWDS staff has eliminated unnecessary language

1 by deleting two sections, Section 18457.1.1 and 18458.1.

2 In addition Section 18456.2.1 has been revised.

3 Copies of the revised language are on the back  
4 table and have been provided to the Board members.

5 The proposed changes to the regulations are:

6 One, a registered waste tire hauler that is a  
7 retreader shall complete a retreader self-certification  
8 form and submit that form to the Board. The Board shall  
9 issue decals and a retreader registration card to the  
10 self-certified retreader. And a customer invoice may be  
11 substituted for a manifest form. For each shipment of  
12 casings, the self-certified retreader should have in his  
13 or her possession a retreader trip log and a customer  
14 invoice or manifest form.

15 Staff requests that the Board adopt Option No. 1  
16 in the agenda item. This option includes the adoption of  
17 Resolution 2004-157, which includes adopting as emergency  
18 regulations the proposed changes to the regulations  
19 presented today and making a finding that the proposed  
20 changes qualify for a categorical exemption under the  
21 California Environmental Quality Act.

22 In addition, Option 1 directs staff to initiate  
23 the final rulemaking process for the proposed changes to  
24 the regulations starting with a 45-day comment period.

25 This concludes staff's presentation.

1           CHAIRPERSON MOULTON-PATTERSON: Thank you very  
2 much.

3           We have a speaker, Terry Leveille, TL Associates.

4           MR. LEVEILLE: Thank you, Madam Chair and Board  
5 members.

6           For the benefit of the two new Board members I  
7 want to just let you know that I wear several hats other  
8 than being the publisher of the California Tire Report.  
9 And the one hat I'm wearing today is as a representative  
10 of the Tire Retread Information Bureau.

11           But before I do that I want to also -- as the  
12 publisher of the Tire Report, I want to applaud Board  
13 Member Peace and her testimony yesterday before the Senate  
14 Transportation Committee on behalf of AB 338, the bill  
15 that would require CalTrans to increase its use of RAC in  
16 its projects. And despite the fact that Ms. Peace  
17 cautioned the Committee that she felt as if she was being  
18 dropped into a snake pit on a TV reality show, I think  
19 everyone in the audience agreed afterward that she was a  
20 snake charmer, because she did a very good job in her  
21 testimony as the representative from the Senate Rules  
22 Committee. And as speaking for herself, she did a  
23 marvelous job. And the bill passed out of the committee  
24 on a 7 to 3 vote yesterday.

25           BOARD MEMBER WASHINGTON: So you can imagine,

1 Terry, how I felt for six years over there.

2 (Laughter.)

3 MR. LEVEILLE: I remember. I remember.

4 Now, back on -- on behalf of the Tire Retread  
5 Information Bureau, I just want to just quickly say --  
6 give hardy thanks to staff. They've been very helpful in  
7 terms of working with us in terms of changing the  
8 regulations, not to give an exemption on the manifest, but  
9 to just make it a little bit easier for retreaders, who  
10 are a special case, to carry on their business as they do  
11 and without the burdensome effort of having to send in the  
12 manifest papers every trip.

13 And I talked to Harvey Brodsky, who's the  
14 Executive Director of the Information Bureau. He said  
15 that he had sent a couple of informational packets to Ms.  
16 Marin and Ms. Mulé so that you could have some background  
17 on that.

18 But, once again, I want to thank staff. They've  
19 done a marvelous job. And we urge the Board to approve  
20 these emergency regs.

21 CHAIRPERSON MOULTON-PATTERSON: Thank you very  
22 much, Mr. Leveille.

23 Ms. Peace.

24 BOARD MEMBER PEACE: Yeah, I think this is great  
25 that we're making this less burdensome for the retreaders.

1           But the manifest system for waste tire haulers is  
2 also cumbersome and burdensome. And I just hope that we  
3 can make changes to the manifest system for waste tire  
4 haulers, make those changes, make them less burdensome, as  
5 expeditiously as we did for the retreaders.

6           So with that I'd like to move Resolution No.  
7 2004-157, consideration of adoption of emergency  
8 regulations, and request for rulemaking direction to  
9 formally notice amendments to the waste tire hauler  
10 registration and manifesting regulations regarding  
11 retreaders for the 45-day comment period.

12           BOARD MEMBER WASHINGTON: Second.

13           CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
14 motion by Ms. Peace -- was that -- Washington seconded, to  
15 approve resolution 2004-157.

16           Without objection, please substitute the previous  
17 roll call.

18           Brings us to No. 28.

19           DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

20           Item 28 is consideration of proposed applicant  
21 eligibility, project eligibility, scoring criteria, and  
22 evaluation process for the Waste Tire Amnesty Day Grant  
23 Program, Fiscal Year 2004-2005.

24           Boxing Cheng will make the staff presentation.

25           (Thereupon an overhead presentation was



1 Presented as follows.)

2 MR. CHENG: Madam Chair and Board members. This  
3 is Boxing Cheng. I will make the presentation on this  
4 program.

5 --o0o--

6 MR. CHENG: This program mainly I will have some  
7 proposals today.

8 CHAIRPERSON MOULTON-PATTERSON: Could you speak a  
9 little closer. I'm sorry, we can't hear you.

10 Thank you.

11 MR. CHENG: I'm sorry.

12 This is like a proposal for the Waste Tire  
13 Amnesty Grant Program for application eligibility, project  
14 eligibility, scoring criteria, evaluation process.

15 --o0o--

16 MR. CHENG: For the application eligibility  
17 mainly is for the California counties and cities and all  
18 the special districts, political subdivisions and the  
19 qualified California indian tribes all will be the equal  
20 possibility.

21 So the project eligibility is mainly for two  
22 parts. One is for the public -- have the tire collection  
23 events. And another is for the educational program.

24 So the scoring criteria I will be -- present the  
25 below in detail.

1           The evaluation process actually is the same as  
2 the former process.

3                               --o0o--

4           MR. CHENG: The purpose of this grant is mainly  
5 for help the public to collect their tire -- waste tires  
6 and so the local government can better manage their  
7 nuisance tires.

8           Another part is for the educational program for  
9 teaching the public how to properly care the tire and  
10 dispose of tires.

11                              --o0o--

12           MR. CHENG: Give you some background. Since 1992  
13 Board had approved more than -- provided more than 2.7  
14 million in grant funding to support over total 130 grants.

15           All are listed here.

16                              --o0o--

17           MR. CHENG: The key issues I will mention for you  
18 here, like the matching requirement, maximum grant amount,  
19 and scoring criteria, and also evaluation process.

20                              --o0o--

21           MR. CHENG: You can see we had 100 percent for  
22 the first two cycles. And then he found out a little bit  
23 of difficulty for the lower areas, so we decreased the  
24 matching requirement to 50 percent for cycle 3 and cycle  
25 4.

1           And for cycle 5, because you can take a look, for  
2 the -- consequently three cycle, from cycle 2 to cycle 4,  
3 we have undersubscribed. You know, we have like 400,  
4 500,000 grants, but only have 317 grants awarded.

5           And then we decided to eliminate the matching  
6 last year. But in the last year -- after last cycle, last  
7 cycle 5, we got 29 grantee. We only have 400,000, but  
8 like they -- as they awarded like \$925, 674 grant. So we  
9 are significantly oversubscribed. So this cycle Board  
10 staff is suggesting maybe we increase the matching to 25  
11 percent. So that's -- the Board for considerations.

12                               --o0o--

13           MR. CHENG: Another change for the maximum grant  
14 amount. Usually is for 20,000 per award. But we would  
15 encourage the people have like a joint powers or we will  
16 have -- this year we suggest like if you can apply for the  
17 joint power, you can apply for maximum 25,000 per  
18 jurisdiction up to four jurisdiction. That would be a  
19 hundred thousand.

20           CHAIRPERSON MOULTON-PATTERSON: Mr. Paparian.

21           BOARD MEMBER PAPARIAN: Madam Chair, I think  
22 staff has done a great job on this and I'm ready to move  
23 it if --

24           CHAIRPERSON MOULTON-PATTERSON: Okay. We have  
25 one brief speaker.

1 Jim Hemminger.

2 Thank you very much, Mr. Cheng.

3 MR. HEMMINGER: I think you're done.

4 MR. CHENG: Oh, okay. Sure.

5 CHAIRPERSON MOULTON-PATTERSON: Okay. Jim,  
6 representing Rural Counties ESJPA.

7 MR. HEMMINGER: Thank you very much.

8 CHAIRPERSON MOULTON-PATTERSON: Good morning --  
9 or good afternoon.

10 MR. HEMMINGER: I will try to brief, if I could.

11 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

12 MR. HEMMINGER: And I would like to join others  
13 in welcoming the two members to the Waste Board. And  
14 would like to introduce them to the Rural Counties ESJPA,  
15 which is joint powers authority that's comprised of twenty  
16 rural counties within California.

17 It's mainly the smallest rural counties.  
18 Seventeen of the member counties actually have populations  
19 of less than 50,000. And generally they're the largest  
20 counties geographical area-wise.

21 Through a contract with the Regional Council of  
22 Rural Counties the ESJPA provides a variety of services to  
23 its member counties. One of the things we try to do is  
24 work with the Waste Board in helping rural counties  
25 achieve compliance with various regulatory requirements

1 for which they need to conform.

2 We also provide an information ombudsman forum  
3 with meetings here in Sacramento that many Waste Board  
4 staff graciously attend to talk to our rural counties, let  
5 them share ideas about what different counties are doing  
6 and also hear from Waste Board about some upcoming issues.

7 And we also -- collectively the 20 counties do  
8 help with program implementation.

9 And I do know it's been said several times, but I  
10 probably cannot say it enough, that the Waste Board has  
11 historically shown wonderful attention and support for  
12 rural counties. It starts of course from the Board Chair,  
13 who actually has gone and visited recycling centers and  
14 solid waste facilities in every one of our most remote  
15 rural counties. It extends through county staff, from the  
16 division heads, Jim and others, and, most importantly, to  
17 Boxing. These are the people who get to know us  
18 intimately as they struggle with our county staff day by  
19 day to do what we're supposed to with the grant and go way  
20 above and beyond, I'm sure, their job descriptions to help  
21 out the rural counties.

22 That appreciation, like I said, probably can  
23 never be said enough.

24 CHAIRPERSON MOULTON-PATTERSON: Thank you.

25 MR. HEMMINGER: And of particular importance of

1 course to us is the Waste Board grant programs. With  
2 limited funding, rural counties more than other  
3 jurisdictions, I think, do appreciate the financial  
4 assistance that is available from the Waste Board. I'm  
5 not sure if we could compute it. But if we could chart  
6 out the most appreciation per dollar of grant money, rural  
7 counties would be way above the median lines there,  
8 because we do appreciate the money very much.

9           And of those programs, Tire Amnesty Grant Program  
10 has stood out as particularly important to the rurals.  
11 And the Waste Board has historically gone out of its way  
12 to make these programs available to our rural counties. A  
13 variety of reasons: Illegal disposal issues, so much open  
14 public lands, and also the limited cap on the dollar value  
15 makes it particularly attractive to rural counties. It  
16 may be less so for some of the larger jurisdictions for 10  
17 or \$20,000. It does mean a lot to the rurals. And, quite  
18 frankly, we're one of the reasons that the program became  
19 oversubscribed, if you will. When the matching funds were  
20 reduced, the rural counties got in line for it.

21           With this I did put forward a suggestion. And  
22 really it was intended not at all to be critical of the  
23 grant program. I want to be very clear there. But it was  
24 intended to put forward a positive suggestion, and was in  
25 response to some concerns I did get from some of our

1 smaller more remote counties -- the Modocs, the Inyos, the  
2 Monos -- that increasing, as recommended, the dollar  
3 value, the point value, if you will, for the cheapest  
4 program, we're afraid, would make it more difficult and  
5 put distant counties with high hauling costs at a  
6 disadvantage relative to others.

7 I talked to Jim. And I know he put together I  
8 guess this spreadsheet, indicating that based on grant  
9 applications the cost dollar per tire actually was pretty  
10 consistent whether you're rural or non-rural.

11 My first reaction was one of pride that our rural  
12 counties are able to do such an efficient job, despite  
13 long-haul distances and all, that we are frugal and able  
14 to compete successfully on a dollar per tire value. And  
15 I'm sure that's part of it. But numbers don't tell the  
16 whole story. And there's a lot more to it.

17 These numbers surprised me, because that was  
18 actually based on actual costs. These numbers we're  
19 looking at here were based on projected costs. Quite  
20 honestly, these were the first time our counties did  
21 Amnesty Day programs. I think some counties were a little  
22 optimistic in the number of tires they were going to  
23 collect. So their application may have shown a higher  
24 per -- a lower per dollar cost than actually borne out to  
25 be true.

1           Future applications will need to reflect the  
2 real-world estimates. And I guess as actual, future  
3 applications will be higher.

4           Haul distances is very real. We looked at some  
5 counties here and, frankly, some rural counties, Glenn  
6 County or even Shasta, which has a cement kiln right  
7 within its county, don't have long hauling costs. But  
8 other jurisdictions do. When I looked at Siskiyou, Inyo,  
9 and Alpine actually from a previous grant cycle, over  
10 one-third of their costs were for haul distances. With  
11 fuel prices, that likely would go further.

12           So against this backdrop, we suggested maybe  
13 don't base it absolutely on dollar per program, but look a  
14 little more on dollar -- on efficiency of program or  
15 consider geographical distances. Jim indicated that, one,  
16 it may not be necessary, two, makes it very, very  
17 difficult to quantify, which I certainly do agree. To  
18 come up with a defensible way of reflecting regional needs  
19 would be very, very difficult.

20           Boxing didn't get to it, but I understood he was  
21 going to clarify, which is very helpful, that the grant  
22 criteria -- the cost per tire is not just based on the  
23 grant dollars, but is a sum of the grant dollars plus  
24 matching funds. And I think that was important.

25           I don't want to put words in your mouth.



1           MR. CHENG: Yes, it is. I was planning to  
2 indicate.

3           MR. HEMMINGER: Which is helpful, because  
4 disadvantaged communities who may not be able to put up a  
5 lot of matching funds will not be at a disadvantaged  
6 there.

7           And also we suggested, and I would appreciate if  
8 the Board may consider, maintaining the existing criteria  
9 points, if you will, for the cost per tire.

10           Our counties very, very much support the basic  
11 thrust which was underlying this recommendation to reward  
12 program efficiency, and we're very proud of our  
13 efficiencies, but do feel just basing it on a dollar -- or  
14 number of tires per dollar does fail to look at some basic  
15 costs that really are beyond the control of our counties.

16           So with that, I again want to emphasize thank you  
17 for the program and appreciate your consideration of our  
18 suggestions.

19           CHAIRPERSON MOULTON-PATTERSON: Thank you, Jim.

20           DEPUTY DIRECTOR LEE: Madam Chair?

21           CHAIRPERSON MOULTON-PATTERSON: Yes. Who's  
22 talking?

23           Mr. Lee.

24           DEPUTY DIRECTOR LEE: I apologize, Madam Chair.

25 I just did want to respond to some of the issues that Jim

1 brought up. And then get some clarification on a proposed  
2 staff change in some of the language there I guess in  
3 criterion 10 to make this absolutely clear what the intent  
4 is.

5           First of all, again, as I think -- as Jim  
6 acknowledged, I had some personal discussions with him,  
7 you know, with regards to the issues raised in his letter.  
8 You know, his initial position had been that, you know, by  
9 utilizing the cost-per-tire criteria and their raising it  
10 from five to ten, that the people that he represents,  
11 mainly the rural counties, would be particularly  
12 disadvantaged.

13           Again, just looking at the last three grant  
14 cycles you know, the data did not support that contention.  
15 Nevertheless, I think we wanted to make it clear that  
16 again it is our intent in evaluating this cost-per-tire  
17 figure that staff is looking at both the grant dollar that  
18 are expended plus any matching grants, because we see it  
19 as the total cost that's involved that should be then  
20 divided by the potential number of tires collected to  
21 compute this cost-per-tire calculation.

22           So I believe we are prepared to make that change.  
23 And I'd like to ask Mitch Delmage to come up to speak to  
24 that.

25

1 MR. DELMAGE: Mitch Delmage with the Special  
2 Waste Division Waste Tire Program.

3 When we make that calculation, last year since we  
4 didn't have a match, it was moot. This year we're upping  
5 the match to 25 percent. And when we make the  
6 calculation, we include that with the grant amount and  
7 then subtract out public education costs. So we're just  
8 looking at the actual collection costs for the tires. And  
9 that's how we make that calculation.

10 CHAIRPERSON MOULTON-PATTERSON: Thank you.

11 DEPUTY DIRECTOR LEE: And, Mitch, what changes do  
12 we want to -- do we want any kind of language changes in  
13 the criterion itself?

14 MR. DELMAGE: So we'll add the language in there  
15 that shows that the cost -- we'll actually just put a  
16 calculation in there. I think that would be the clearest,  
17 where it shows that it's the grant amount plus the match  
18 minus the public education and development costs.

19 DEPUTY DIRECTOR LEE: And we're going to make  
20 that clear as part of the notice of funding availability;  
21 that's where we'll have that clarifying language?

22 MR. DELMAGE: Yes. And it's also in the  
23 application package.

24 CHAIRPERSON MOULTON-PATTERSON: Ms. Peace had the  
25 floor, and then Ms. Marin.

1           BOARD MEMBER PEACE: So the additional language  
2 that Jim had suggested to put the least cost per tire and  
3 consideration of the geographic, demographic, and regional  
4 factors will receive the most points, did you decide to  
5 change that into that?

6           DEPUTY DIRECTOR LEE: No.

7           BOARD MEMBER PEACE: You didn't?

8           DEPUTY DIRECTOR LEE: That would make -- in  
9 staff's opinion, that would make the program, you know,  
10 too cumbersome to administer, much more subjective than it  
11 is now. And, again, as I said before, the information  
12 that we --

13          BOARD MEMBER PEACE: -- it didn't support what  
14 he --

15          DEPUTY DIRECTOR LEE: -- didn't support that the  
16 rurals were being disadvantaged at all.

17          BOARD MEMBER PEACE: I was just going to ask what  
18 you thought -- if you thought there was any negatives to  
19 leaving that in there. But you just answered my question.  
20 So thank you.

21          CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.

22          Ms. Marin.

23          BOARD MEMBER MARIN: Madam Chair.

24          So if I understand correctly, the general  
25 criteria and the points continue to be the same; you're

1 just going to clarify in other areas? Or is it going to  
2 be part of this scoring criteria?

3 MR. DELMAGE: It'll be clarified in the scoring  
4 criteria.

5 BOARD MEMBER MARIN: As well. Okay, good.  
6 Thank you.

7 CHAIRPERSON MOULTON-PATTERSON: Thank you.

8 Ms. Peace.

9 BOARD MEMBER PEACE: Also, Jim, can you explain  
10 to me Scoring Criteria No. 9 on the tire disposition? Can  
11 you explain to me how, where there's cement kilns and  
12 cogens and stuff, how they fit into the scoring criteria?

13 DEPUTY DIRECTOR LEE: Ms. Peace, let me defer  
14 that question to Mr. Delmage, who's done some looking into  
15 that particular situation.

16 MR. DELMAGE: Well, we're not, you know, allowed  
17 by law to support tire incineration. So we've left that  
18 out. But there are cases on these collection events where  
19 the tires really have no other place to go.

20 BOARD MEMBER PEACE: As Jim just mentioned, that  
21 Shasta, you know, would take all their tires to a cement  
22 kiln.

23 MR. DELMAGE: Right.

24 BOARD MEMBER PEACE: So I just wanted to make  
25 sure that we're not -- like they're getting less points

1 for doing that.

2 MR. DELMAGE: Well, what we've asked for, up to  
3 five points, is if they can justify that they just have no  
4 other use for the tire or it's unduly costly to do  
5 something else with the tire, then we can consider giving  
6 them up to five points.

7 BOARD MEMBER PEACE: But only up to five points?

8 MR. DELMAGE: Right.

9 BOARD MEMBER PEACE: So if there is nothing else  
10 they could do with the tires --

11 MR. DELMAGE: Well, we really want to support  
12 higher recycling-type end uses for these tires.

13 BOARD MEMBER PEACE: I thought you just said  
14 you'd get the five points if they proved they couldn't --  
15 there's no other place the tires could go.

16 MR. DELMAGE: Right. The reason that we have ten  
17 points for recycling uses is to show our emphasis for  
18 that. But we still want to allow -- in cases where there  
19 just aren't other options, that we can give them some  
20 points up to five.

21 DEPUTY DIRECTOR LEE: And, Ms. Peace, what we're  
22 trying to do again -- as is acknowledged, that not all  
23 tires, you know, can be, you know, reused beneficially at  
24 least through the normal, you know, crumbing processes or  
25 making them into some other molded rubber product. You

1 know, burning becomes the only -- potentially the only,  
2 you know, viable option. But we are constrained again by  
3 language in the trailer bill. So, again, we have to --  
4 you know, we've done the best that we can do recognize all  
5 of the various constraints and issues that surround this.  
6 And that's why the points were derived as they were and  
7 why we've, you know, carefully tried to couch the language  
8 such that we don't run afoul of our statutory constraints.

9 BOARD MEMBER PEACE: So that a place like Shasta  
10 in a rural county where it's closer to take -- you know,  
11 closer and more cost effective and everything to take  
12 their tires to the cement kiln, they could only get up to  
13 five points.

14 DEPUTY DIRECTOR LEE: Right.

15 BOARD MEMBER PEACE: They couldn't get a full ten  
16 points?

17 DEPUTY DIRECTOR LEE: That is correct.

18 BOARD MEMBER PEACE: So it couldn't be that they  
19 could get ten points for reuse or recycling but still get  
20 ten points for other options if they can justify why the  
21 reuse of the recycling options aren't currently available?  
22 I mean why are they getting less points if that was the  
23 only option for them?

24 DEPUTY DIRECTOR LEE: Again, like I said, the  
25 language was put together, you know, to reflect all the

1 various -- I think -- let me just back up a minute.

2 I think the desire to -- if we increase the  
3 points for burning them up to ten points, then it could be  
4 arguably construed that we were providing -- you were  
5 putting the burning on the same playing field as the other  
6 beneficial reuses of tires. And, again, because of the  
7 specific language in the trailer bill, there was some  
8 discussion among Legal and program staff again about, you  
9 know, whether or not that would be compromising, you know,  
10 those provisions.

11 BOARD MEMBER PEACE: I guess my concern is still  
12 that -- so you think legally we couldn't say they can get,  
13 you know, up to ten points for reuse and recycling, but  
14 they could also get ten points if they could show that  
15 there was nothing else they could do it with it, and  
16 another option was all they could -- something else was  
17 all they could do.

18 CHIEF COUNSEL CARTER: Ms. Breckon will address  
19 that issue. She has been looking into it.

20 CHAIRPERSON MOULTON-PATTERSON: We can't hear  
21 you, Ms. Carter.

22 STAFF COUNSEL BRECKON: This is Wendy Breckon  
23 with the Legal Office. I'd like to address that question.

24 I think what staff has done so far is gone with  
25 the hierarchy in PRC 40051 for how to dispose of the tires



1 and give them more points for reuse and recycling, less  
2 points for anything less on the hierarchy than that.

3 But --

4 BOARD MEMBER PEACE: Well, I can see where they'd  
5 get less points on a hierarchy if there were other  
6 options. But to get less points when there aren't any  
7 other options doesn't seem quite fair.

8 STAFF COUNSEL BRECKON: Right. My concern was  
9 because of the trailer bill that we certainly don't give  
10 more points for incineration than for other options,  
11 because that would be seen as promoting incineration. If  
12 we give the same amount of points, I don't think that  
13 would be seen as promoting or supporting incineration.  
14 However, we'd have to make it real clear that no grant  
15 funding could be used to pay, for example, giving the  
16 tires to a cement kiln or some facility that incinerated  
17 the tires. That, you know, if we're just bringing the  
18 tires there, maybe that wouldn't be seen as supporting  
19 incineration.

20 CHAIRPERSON MOULTON-PATTERSON: While you're  
21 thinking about that, Mr. Paparian.

22 BOARD MEMBER PAPARIAN: I'm ready to move it. I  
23 think it is consistent with our -- how we've handled the  
24 range of grants that have involved all kinds of materials.

25 CHAIRPERSON MOULTON-PATTERSON: A accept your

1 motion.

2 BOARD MEMBER PAPARIAN: Okay. I will move --

3 CHAIRPERSON MOULTON-PATTERSON: Did I say

4 emotion? But I meant motion.

5 BOARD MEMBER PAPARIAN: I will move Resolution

6 2004-158.

7 CHAIRPERSON MOULTON-PATTERSON: Okay.

8 BOARD MEMBER MULÉ: Second.

9 CHAIRPERSON MOULTON-PATTERSON: Okay. We have a  
10 motion by Mr. Paparian, seconded by Ms. Mulé, to approve  
11 Resolution 2004-158.

12 BOARD MEMBER PEACE: Excuse me, Madam Chair. Can  
13 I amend that motion though to -- you know, to give them up  
14 to ten points if they can justify that there's no other  
15 way to get rid of these tires?

16 CHAIRPERSON MOULTON-PATTERSON: I've got to talk  
17 to the maker of the motion.

18 BOARD MEMBER PAPARIAN: Yeah -- no, I mean I --  
19 we can debate -- I can debate that. I was trying to avoid  
20 doing that. But if we need to enter that debate, I'm  
21 happy to.

22 CHAIRPERSON MOULTON-PATTERSON: Well, I think if  
23 we're going to debate this more, we might need a Special  
24 Waste Committee.

25 But did you accept that or not?

1 BOARD MEMBER PAPARIAN: No, no. I'd like to vote  
2 on the motion.

3 CHIEF COUNSEL CARTER: Mr. Paparian, I would  
4 suggest in light of the revisions that were suggested in  
5 reference to No. 10, that you include in your motion the  
6 formula that would indicate how the cost of --

7 BOARD MEMBER PAPARIAN: Thank you. That would be  
8 part of the motion.

9 CHIEF COUNSEL CARTER: Okay.

10 CHAIRPERSON MOULTON-PATTERSON: So is it clear?  
11 We have a motion by Mr. Paparian to approve Resolution  
12 2004-158, seconded by whom -- did we get to -- Ms. Mulé.

13 Please call the roll on this one.

14 SECRETARY WADDELL: Marin.

15 BOARD MEMBER MARIN: Aye.

16 SECRETARY WADDELL: Mulé?

17 BOARD MEMBER MULÉ: Aye.

18 SECRETARY WADDELL: Paparian?

19 BOARD MEMBER PAPARIAN: Aye.

20 SECRETARY WADDELL: Peace?

21 BOARD MEMBER PEACE: We'll discuss this more in  
22 Special Waste.

23 Aye.

24 SECRETARY WADDELL: Washington?

25 BOARD MEMBER WASHINGTON: Aye.

1 SECRETARY WADDELL: Moulton-Patterson?

2 CHAIRPERSON MOULTON-PATTERSON: Aye.

3 The motion passes.

4 No. 29.

5 DEPUTY DIRECTOR LEE: Thank you, Madam Chair.

6 Item No. 29 is request for direction on options  
7 to modify certain Fiscal Year 2004-2005 activities  
8 identified in a five-year plan for the Waste Tire  
9 Recycling Management Program and discussion of the  
10 biennial update process.

11 This item was prepared at the request of the  
12 Executive Director to respond to Board member questions  
13 and comments on this issue raised at the May 2004 and  
14 previous Board meetings.

15 Specifically, various Board members had indicated  
16 a desire to re-examine the Local Enforcement Grant  
17 Program, the Commercialization Grant Program, and the  
18 Rubberized Asphalt Concrete Technology Centers, and  
19 potentially the Fiscal Year 2004-2005 five-year budget  
20 plan allocations for these programs.

21 At this point it would be instructive to examine  
22 what has been the historical precedent for making changes  
23 in the five-year plan and individual year budget  
24 allocations based upon statutory, legislative intent,  
25 Board policy considerations, and operational constraints.

1           Senate Bill 876 was enacted to provide a  
2 comprehensive measure to extend and expand California's  
3 regulatory program related to the management of waste and  
4 used tires.

5           SB 876 required the Board to adopt and submit to  
6 the Legislature a five-year plan that included waste tire  
7 program goals and priorities and proposed budget  
8 allocations, including grants, loans, contracts and other  
9 expenditures under the Tire Recycling Program. In  
10 addition, it requires that the five-year plan be updated  
11 every two years.

12           Among other things, the implied intent of this  
13 legislation was to provide a measure of stability and  
14 program continuity.

15           The last update of the five-year plan was  
16 completed in May of 2003 to provide budget allocations and  
17 staff direction for Fiscal Years 2003-4, the budget year  
18 2004-2005, and outlying years through 2007-8.

19           The next update of the five-year plan will  
20 conclude in June of 2005 to provide for updated or revised  
21 direction for Fiscal Years '05-'06 through '09-2010.

22           Historically there are two types of modifications  
23 to the five-year plan which the Board has entertained.  
24 One is a reallocation of current-year monies at the end of  
25 the fiscal year, after it is determined that there are

1 funds that are available because of any number of reasons,  
2 including undersubscribed grant cycles or lack of  
3 resources to implement a particular program.

4           The Board has indicated in the past that they  
5 prefer to wait until the end of fiscal year to reallocate  
6 any current year remaining funds. So that can be done in  
7 one comprehensive agenda item rather than piecemeal  
8 throughout the year.

9           The other type of modification is a revision of  
10 the five-year plan itself, based on changing goals and  
11 priorities. Thus far a revision of goals and priorities  
12 has occurred as part of the biennial five-year plan review  
13 and update process.

14           Attachment 5 of the agenda item contains a time  
15 line for the five-year planning process. As you can see,  
16 the process which staff expects to commence in September  
17 will not conclude until June of next year. Our experience  
18 in development of previous iterations of the five-year  
19 plan has shown us that this amount time is necessary in  
20 order to hold workshops, to discuss and vet proposals with  
21 disparate stakeholder groups, and to secure consensus  
22 Board approval of the various five-year planning elements.

23           Operationally speaking, timelines are even more  
24 critical, should the Board elect to change some of the  
25 2004-2005 allocations.

1           Almost all the budget allocations involve grants  
2 or contracts which have six to eight month long lead times  
3 to implement. Therefore, should the Board elect to change  
4 these allocations, the decision to do so should come  
5 within the next 30 to 60 days.

6           With that overview, I'd like to address each of  
7 the aforementioned programs where potential changes in  
8 2004-2005 budget allocations have been discussed.

9           I'd also like to emphasize that while the agenda  
10 item has no explicit staff recommendation --

11           CHAIRPERSON MOULTON-PATTERSON: Mr. Lee, wouldn't  
12 this be better served in the Special Waste Committee?  
13 This is really going to have a lot of debate. And since  
14 we have a Special Waste Committee meeting scheduled for  
15 July, I'll defer to Ms. Peace who's the Chair of that  
16 Committee.

17           BOARD MEMBER PEACE: Yes, I think there's quite a  
18 few things here that I want to look at and to talk about.  
19 And I don't know if we have enough time here to do it. So  
20 I'd like to put this back into Special Waste and really  
21 have lot time to talk about it.

22           CHAIRPERSON MOULTON-PATTERSON: Is that okay with  
23 you, Mr. Washington?

24           BOARD MEMBER WASHINGTON: Yes.

25           CHAIRPERSON MOULTON-PATTERSON: Did you have a

1 comment, Ms. Marin?

2 BOARD MEMBER MARIN: I do, Madam Chair.

3 My question would be -- I'm not a member of that  
4 committee. I think that this is -- as a process issue  
5 this is more complicated than just waste.

6 If I understand correctly -- and I certainly --  
7 I'm going to try to be at your committee when this is  
8 discussed. But I would be concerned that we would -- that  
9 this is something that will impact far many more contracts  
10 and/or processes for awarding contracts and -- than just  
11 that waste area. So I would just -- I think this is  
12 bigger and maybe --

13 CHAIRPERSON MOULTON-PATTERSON: Absolutely. And  
14 let me remind everybody that the committees are advisory  
15 only. They're all open and everything comes back to the  
16 Board, you know, of substance. So certainly we just would  
17 have a little more time to discuss in depth and then bring  
18 anything back to the full Board.

19 Mr. Paparian.

20 BOARD MEMBER PAPARIAN: Yeah, just to clarify on  
21 the committee process. My understanding is -- you know,  
22 any of us can attend any committee.

23 CHAIRPERSON MOULTON-PATTERSON: That's what I  
24 said. Absolutely.

25 BOARD MEMBER PAPARIAN: So I think this is very



1 appropriate.

2 CHAIRPERSON MOULTON-PATTERSON: Okay. So --

3 DEPUTY DIRECTOR LEE: Madam Chair, may I make  
4 just one concluding remark. Again, perhaps I was, you  
5 know, too laboriously, you know, trying to make the points  
6 there, and certainly defer to the Board's position on  
7 this.

8 Again, what I was basically just trying to say  
9 again is that indeed many of the issues that we're  
10 discussing here have significant policy level  
11 implications, and that I wanted to ask the Board again to  
12 recognize those as they make their deliberations on  
13 whatever direction they were proposing to give the staff.

14 CHAIRPERSON MOULTON-PATTERSON: We understand,  
15 Mr. Lee.

16 Thank you.

17 Okay. Number 14, our last item, that was  
18 continued from yesterday.

19 Oh, excuse me. Oh, no, no, no. That's right.

20 Okay. Never mind.

21 Number 14.

22 DEPUTY DIRECTOR WOHL: This is Patty Wohl again  
23 with Waste Prevention and Market Development Division.

24 Maybe I can go through this relatively quickly  
25 and --

1           CHAIRPERSON MOULTON-PATTERSON: And we do have a  
2 speaker. I don't want to forget him. Scott Smithline,  
3 Californians Against Waste, will be speaking after the  
4 report.

5           Thank you.

6           DEPUTY DIRECTOR WOHL: Okay. Well, I understand  
7 that you have a sample of a rewrite basically that focuses  
8 on similar tasks, a workplan and the budget; a literature  
9 search, which I think we want to make a change there and  
10 add the degradable technologies back in there because we  
11 would like to have literature and find out what's out  
12 there on those subjects even if we're not moving forward  
13 at this time with that.

14           And then since CSU had talked about their  
15 demonstration project, we're kind of keeping that open,  
16 but that would probably be who would do it at this point  
17 since it's under their contract.

18           And then we've taken out the life cycle. We'd  
19 have an evaluation report.

20           So with that, we think we have agreement from the  
21 stakeholders. So it would be adopting resolution  
22 2004-178, revision 2, and 2004-179, revision 2. And 179,  
23 the amount was not changed, so it would be changed to  
24 75,000 at the bottom of that instead of 225.

25           So I guess we'll hear from the stakeholders.

1           CHAIRPERSON MOULTON-PATTERSON: Thank you, Ms.

2 Wohl. I had misplaced a copy of it, so I apologize.

3           We're all set here now. Thank you.

4           So you had finished? I apologize. I was looking  
5 for my copy.

6           DEPUTY DIRECTOR WOHL: Yes, I'm done. And I  
7 guess we'll here from Scott Smithline.

8           CHAIRPERSON MOULTON-PATTERSON: Okay. And we  
9 have Laurie Hanson also, who will be next.

10           So first Scott Smithline, Californians Against  
11 Waste, followed by Laurie Hanson, California Bag & Film  
12 Alliance.

13           MR. SMITHLINE: Madam Chair, Board members.  
14 Thank you very much for this opportunity.

15           I'd just like to thank you for holding this item  
16 over, giving us the opportunity to work with the staff.

17           I'd like to thank the staff as well for  
18 accommodating us and giving us this time to work out -- I  
19 think we've come up with a really good agenda item now,  
20 for less money. We're getting more bang for our buck.  
21 And we've really narrowed the scope to address the  
22 concerns of -- what the staff has told us are and the  
23 recyclers have told us are -- which is we're not  
24 getting -- the recyclables aren't getting -- the  
25 compostables aren't getting done in 180 days. It's too

1 long of a time period. So we've narrowed it to items that  
2 are already meeting that standard. And within that group  
3 we can find the ones that are even better.

4 And so, again, thank you and thank the staff. We  
5 support this item.

6 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you.  
7 Thanks for your work on it.

8 Laurie Hanson, California Bag & Film Alliance.

9 MS. HANSON: Thank you, Madam Chair. California  
10 Plastic Bag and Film Alliance.

11 And I wanted to thank the staff also for their  
12 hard work on this and working with all of us industry  
13 folks. We've been a little difficult. And I certainly  
14 want to make sure that in the future that we work with the  
15 staff very closely on looking at the litter issue and come  
16 up with some good programs that will evaluate what does  
17 work out there, what doesn't work. And certainly we don't  
18 as an industry want to say anything is okay to litter.

19 So thank you.

20 CHAIRPERSON MOULTON-PATTERSON: Okay. Thank you,  
21 Ms. Hanson.

22 Ms. Mulé.

23 BOARD MEMBER MULÉ: Madam Chair, I also want to  
24 thank staff for your hard work and the quick turnaround on  
25 this. I really do appreciate your working with our

1 stakeholders in this revision.

2 And if no one else has anything, I would like to  
3 move approval, if I may.

4 CHAIRPERSON MOULTON-PATTERSON: Okay.

5 BOARD MEMBER MULÉ: Resolution No. 2004-179 as  
6 revised. Consideration of California State University  
7 Chico Research Foundation as contractor to evaluate  
8 performance, degradation rates, and byproducts of various  
9 compostable rigid plastic packaging containers, other food  
10 service products, and bags using commercial composting  
11 methods as stated. And in the amount of \$75,000.

12 BOARD MEMBER PAPARIAN: I'll second, with a  
13 friendly suggestion that you also include Resolution  
14 2004-178.

15 BOARD MEMBER MULÉ: Oh, I'm sorry.

16 CHAIRPERSON MOULTON-PATTERSON: So we have 178  
17 revision 2; 179, revision 2.

18 Moved by Ms. Mulé and seconded by Mr. Paparian.

19 Well, we better call the roll on this one.

20 Please call the roll.

21 SECRETARY WADDELL: Marin?

22 BOARD MEMBER MARIN: Aye.

23 SECRETARY WADDELL: Mulé?

24 BOARD MEMBER MULÉ: Aye.

25 SECRETARY WADDELL: Paparian?

1 BOARD MEMBER PAPARIAN: Aye.

2 SECRETARY WADDELL: Peace?

3 BOARD MEMBER PEACE: Aye.

4 SECRETARY WADDELL: Washington?

5 BOARD MEMBER WASHINGTON: Aye.

6 SECRETARY WADDELL: Moulton-Patterson?

7 CHAIRPERSON MOULTON-PATTERSON: Aye.

8 Okay. Well I want to thank everybody. And  
9 especially our two new Board members, for hanging in  
10 there.

11 And thank you.

12 This meeting is adjourned.

13 (Thereupon the California Integrated Waste  
14 Management Board meeting adjourned at  
15 12:37 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, JAMES F. PETERS, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing California Integrated Waste Management Board  
7 meeting was reported in shorthand by me, James F. Peters,  
8 a Certified Shorthand Reporter of the State of California,  
9 and thereafter transcribed into typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said meeting nor in any  
12 way interested in the outcome of said meeting.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 29th day of June, 2004.

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